

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.

8  
9 Transcript of excerpt of testimony of  
10 ERIC PRESTON DURAN  
11 Tuesday, February 20, 2018  
12 Wednesday, February 21, 2018  
13 Thursday, February 22, 2018  
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1 February 20, 2018

2 THE COURT: All right. Ms. Armijo, it  
3 looks like Mr. Duran is here. So I've told them  
4 what I'm going to do.

5 All right. Mr. Duran, if you'll come up  
6 to the witness box, and before you're seated, my  
7 courtroom deputy will swear you in.

8 ERIC PRESTON DURAN,  
9 after having been first duly sworn under oath,  
10 was questioned, and testified as follows:

11 THE CLERK: Please be seated. State and  
12 spell your name for the record.

13 A. Eric Preston Duran. E-R-I-C,  
14 P-R-E-S-T-O-N, D-U-R-A-N.

15 THE COURT: Mr. Duran. Ms. Armijo.

16 MS. ARMIJO: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. ARMIJO:

19 Q. Mr. Duran, how old are you?

20 A. 40.

21 Q. And where were you born? What state?

22 A. In California.

23 Q. At some point did you come over to New  
24 Mexico?

25 A. I did, ma'am.

1 Q. How old were you when you came to New  
2 Mexico?

3 A. Age of 13.

4 Q. And did you come with any family?

5 A. I came with my mother.

6 Q. What part of the state did you move to?

7 A. Portales, New Mexico.

8 Q. Now, as a teenager, did you have any  
9 problems with the law?

10 A. I did.

11 Q. And eventually did you find yourself, when  
12 you were 18 years old, with a felony conviction?

13 A. Yes, ma'am.

14 MS. ARMIJO: And Your Honor, I believe  
15 I'll admit without objection Exhibit Number 430 into  
16 evidence.

17 THE COURT: Any objection?

18 MS. DUNCAN: No objection.

19 THE COURT: Not hearing any objection,  
20 Government's Exhibit 430 will be admitted into  
21 evidence.

22 (Government Exhibit 430 admitted.)

23 BY MS. ARMIJO:

24 Q. Now, were you initially, in 1997,  
25 convicted of aggravated burglary?

1 A. Yes, ma'am.

2 Q. As a felony?

3 A. Yes, ma'am.

4 Q. And were you placed on probation?

5 A. Yes, ma'am.

6 Q. How old were you?

7 A. 19, I believe.

8 Q. And then when you were on probation, did  
9 you pick up some additional charges?

10 A. Yes, ma'am.

11 Q. Now, I'm going to go to Exhibit Number  
12 430. And if we could please display Bates 53372.

13 All right. Now, we're looking at a  
14 conviction that you have. Do you recognize that?

15 A. Yes, ma'am.

16 Q. Okay. And does it appear that back on the  
17 29th day of July of 1998, that you received two  
18 felonies for aggravated assault on a peace officer,  
19 which are third-degree felonies, the unlawful taking  
20 of a motor vehicle, resisting arrest, and looks like  
21 the misdemeanor was a High Court Misdemeanor, and  
22 then concealing identity was dismissed; is that  
23 correct?

24 A. Yes, ma'am.

25 Q. And then for that -- if you could go to

1 the next page, please -- were you subsequently for  
2 all of those charges sentenced to a term of -- I am  
3 looking here -- it says, "All counts shall run  
4 consecutive to one another for a total of 10 and one  
5 half years." Does that appear accurate?

6 A. Yes, ma'am.

7 Q. And so with that, were you sent to prison?

8 A. Yes, ma'am.

9 Q. And also the charge that we talked about  
10 earlier, was that revoked and were you sentenced to  
11 prison on that case, as well?

12 A. Yes, ma'am.

13 Q. And do you recall how long? And if not,  
14 we can certainly look it up. Were you sent for one  
15 and a half years on that first case, your very first  
16 felony as an adult?

17 A. Yes, ma'am.

18 Q. Now, when you were sent to prison, where  
19 was it that you were initially sent to; do you  
20 recall?

21 A. The initial place I went to for jail?

22 Q. Right. Well, let me put it this way. You  
23 were probably in jail before these charges were  
24 adjudicated; is that right?

25 A. Correct.

1 Q. And then were you sent to prison?

2 A. Yes.

3 Q. To the New Mexico Corrections Department?

4 A. Yes, ma'am.

5 Q. And when, approximately, were you released  
6 from doing that prison time?

7 A. In 2003.

8 Q. Did something happen to you while you --  
9 when you went to prison, as far as an incident with  
10 correctional officers?

11 A. Yes, ma'am.

12 Q. What happened?

13 A. I was assaulted by correctional officers  
14 and I filed a lawsuit.

15 Q. When you say you were assaulted, what year  
16 did it happen?

17 A. 1998.

18 Q. And where did it happen?

19 A. In Lea County, Hobbs, New Mexico.

20 Q. Was it a New Mexico correctional facility?

21 A. It was a privately ran prison.

22 Q. And --

23 A. Within New Mexico.

24 Q. Within New Mexico?

25 A. Yes, ma'am.



1 Q. And how many guards were involved?

2 A. At least eight.

3 Q. Did you receive any injuries?

4 A. I did.

5 Q. What kind of injuries did you receive?

6 A. I had a broken jaw, head injuries, and  
7 back injuries.

8 Q. Now, you said that you filed a lawsuit  
9 against those individuals?

10 A. Yes, ma'am.

11 Q. Were those individuals also prosecuted by  
12 the federal government?

13 A. Yes, ma'am.

14 Q. And were they convicted?

15 A. Yes, ma'am.

16 Q. Did you receive a settlement as a result  
17 of that incident by the State of New Mexico?

18 A. Yes, ma'am.

19 Q. How much did you receive?

20 A. I'm not sure if I'm even allowed to  
21 disclose that amount.

22 Q. Well, is it in the discovery?

23 A. I signed a contract not to.

24 Q. Okay. Did you receive a substantial  
25 amount from the Corrections Department?

1 A. Yes, ma'am.

2 Q. And when did you receive that money?

3 A. In 2002, August.

4 Q. Now, you were in prison; is that correct?

5 A. Yes, ma'am.

6 Q. Was it being handled for you by other  
7 parties?

8 A. It was.

9 Q. Now, you indicated that you got out in  
10 2003; is that correct?

11 A. Yes, ma'am.

12 Q. Before you got out in 2003, were you aware  
13 of the SNM?

14 A. Yes, ma'am.

15 Q. What is the SNM?

16 A. A prison gang.

17 Q. And what does SNM stand for?

18 A. Sindicato de Nuevo Mexico.

19 Q. And when were you first aware of SNM?

20 A. When I initially came to prison, in 1998.

21 Q. When you first got in in 1998 -- well, let  
22 me ask you this question before I go any further.

23 Are you now or were you ever a member of the SNM?

24 A. I was a member of the SNM.

25 Q. And when did you become a member of the

1 SNM?

2 A. In 2003.

3 Q. Now, you said that you were aware of them  
4 in 1998. How so?

5 A. I met one of the members of the SNM at a  
6 facility that I arrived to, which was the South.

7 Q. Okay.

8 A. PNM.

9 Q. Okay. And when you say "the South,"  
10 you're talking about how PNM has two facilities, the  
11 North and the South?

12 A. Correct.

13 Q. Now, how is it that you became a member in  
14 2003?

15 A. I was brought in by high-ranking members.

16 Q. And who did that include?

17 A. Paul Martin and Oso Bear.

18 Q. And who was the other?

19 A. Oso Bear.

20 Q. Does Oso mean bear in Spanish?

21 A. Yes, ma'am.

22 Q. Now, are you aware of different qualities  
23 that members have to offer the SNM?

24 A. Yes, ma'am.

25 Q. What would you say was your benefit to the

1 SNM? What did you bring to the table?

2 A. As far as being -- besides a soldier, just  
3 the business, as I said earlier.

4 Q. When you were in prison up until 2003, did  
5 you ever -- were you ever involved in the drug  
6 business?

7 A. I was involved in the drug business.

8 Q. Tell the jury about that.

9 A. I sold, brought in drugs into facilities.  
10 Sold drugs, made money. Helped out other members of  
11 SNM with drugs. Helped them out with money, as  
12 well.

13 Q. What is the SNM?

14 A. The SNM is an organization that's violent,  
15 very territorial, operates from within the prison  
16 system to society.

17 Q. Are they involved in any crimes?

18 A. They're involved in narcotics trafficking,  
19 and intimidate and influence other smaller gangs by  
20 murder and brutal assaults.

21 Q. Are there any rules within the gang?

22 A. There are several rules.

23 Q. What are some of the important rules?

24 A. I guess the Number 1 rule would be not to  
25 cooperate, be a witness against the SNM; follow

1 order. If you're told to do something, you've got  
2 to do it or the consequence will be death. You  
3 can't leave the gang once you're initiated into the  
4 gang, or the consequence would be death. No --  
5 can't be a child molester or a rapist.

6 Q. Now, you mentioned that you were involved  
7 in the drug-trafficking aspect of it. Did you ever  
8 use drugs while you were in prison?

9 A. No, ma'am.

10 Q. And why is that?

11 A. Because --

12 Q. It's just something that you didn't get  
13 into or --

14 A. I just never got into it.

15 Q. Now, you indicated that in 2003 you were  
16 released; is that correct? Do you recall  
17 approximately when?

18 A. I was released September 16 of 2003.

19 Q. Now, did you eventually make your way back  
20 into prison after being let out in 2003?

21 A. Yes, ma'am.

22 Q. I'm going to go to again Exhibit Number  
23 430. If we could please show Bates 53375.

24 I know that's kind of light. But can you  
25 see that this is in a cause number that I believe is

1 in 2004 that indicates coming to court for a hearing  
2 on February 28 of 2005 and -- there you go -- for  
3 the count of murder in the second degree as an  
4 accessory?

5 A. Yes, ma'am.

6 Q. Did you receive that conviction?

7 A. Yes, ma'am.

8 Q. All right. And did that involve -- why  
9 don't you tell the jury what that incident involved.

10 A. It involved me being an accessory to  
11 murder.

12 Q. And when you were out on the street, was  
13 there an issue that arose with all the money that  
14 you had received from Corrections?

15 A. Yes, ma'am.

16 Q. And eventually did it lead to somebody  
17 being killed?

18 A. Yes, ma'am.

19 Q. Was it your understanding the victim in  
20 this case was somebody that was trying to rip you  
21 off?

22 A. Yes, ma'am.

23 Q. And how many years were you sentenced to  
24 prison?

25 A. Fifteen.

1 Q. How many?

2 A. Fifteen.

3 Q. And did you subsequently -- I'm going to  
4 53377. Just while we still have your convictions at  
5 hand, did you also receive another felony conviction  
6 for possession of a deadly weapon by a prisoner in  
7 2013?

8 A. Yes, ma'am.

9 Q. All right. And what does this incident  
10 involve?

11 A. It involves me having a weapon and being  
12 caught with a weapon within my cell.

13 Q. Okay. Where were you at?

14 A. Southern New Mexico Correctional Facility.

15 Q. And why did you have a weapon?

16 A. I had a weapon. Based on what we're  
17 taught as members of the SNM is to always keep a  
18 weapon close for war.

19 Q. And did you basically receive an  
20 additional term of incarceration and probation for  
21 this incident?

22 A. Yes, ma'am.

23 Q. And I believe it was for an additional  
24 year incarcerated; does that sound correct?

25 A. Yes, ma'am.

1 Q. So approximately -- you go back to the  
2 Corrections Department in 2005. Does that sound  
3 correct?

4 A. Yes, ma'am.

5 Q. And when you went into Corrections at this  
6 point -- I believe you had indicated that you'd  
7 become a member in 2003. Were you still a member of  
8 the SNM?

9 A. Yes, ma'am.

10 Q. And in general -- you don't have to be  
11 specific right now as far as years or anything  
12 else -- but can you tell the jury the different  
13 facilities you had been housed in over the years  
14 with Corrections?

15 A. I've been housed at the correctional  
16 facility, at Lea County Correctional Facility, which  
17 is in Hobbs, New Mexico. That's where I initially  
18 went in 2005. I've been housed at the North  
19 facility at the Penitentiary of New Mexico and the  
20 South facility at the Penitentiary of New Mexico.  
21 I've been housed at the Santa Rosa Correctional  
22 Facility in Santa Rosa, New Mexico. And I've been  
23 housed at the Southern New Mexico Correctional  
24 Facility here in Las Cruces.

25 Q. And I'm just going to go over a couple of



1 things during your stay there. At the different  
2 facilities, have you ever been caught with  
3 contraband; for instance, a cellphone?

4 A. I was caught with a cellphone and drugs at  
5 PNM North facility in Santa Fe, New Mexico.

6 Q. And that cellphone was provided to you by  
7 whom?

8 A. By an associate.

9 Q. It wasn't provided to you as far as any  
10 sort of -- you weren't supposed to have it?

11 A. No, no.

12 Q. I'm assuming you weren't supposed to have  
13 the drugs, et cetera?

14 A. No, ma'am.

15 Q. And did you receive discipline for that?

16 A. Yes, ma'am.

17 Q. At some point you indicated that you came  
18 to Southern. When were you in Southern?

19 A. I've been to Southern twice. Which  
20 occasion?

21 Q. Tell us about the number, which two  
22 occasions those are.

23 A. I came to Southern New Mexico Correctional  
24 Facility in 2006 and in 2013.

25 Q. Now, I'm going to ask you about a few

1 people. Do you know Daniel Sanchez?

2 A. Yes, ma'am.

3 Q. How do you know Daniel Sanchez?

4 A. I met Daniel Sanchez in 1998 at the  
5 Penitentiary of New Mexico, South facility.

6 Q. And when you met him, do you know whether  
7 or not he was an SNM Gang member?

8 A. He was an SNM Gang member.

9 Q. And did you have an opportunity to talk to  
10 him during that time period?

11 A. Yeah, I spoke to him. I met him.

12 Q. "To your man"? Is that what you said?

13 A. No, I spoke to him and met him.

14 Q. Oh, spoke to him and met him. Sorry. And  
15 do you see him in the courtroom today?

16 A. Yeah.

17 Q. Okay. You just pointed in the direction.  
18 Can you describe what he's wearing?

19 A. He's wearing a blue suit with a red tie  
20 and a light blue shirt.

21 Q. And where in the courtroom is he seated?  
22 To your left?

23 A. Yes, ma'am.

24 MS. ARMIJO: May the record reflect  
25 identification of the defendant?

1 THE COURT: The record will so reflect.

2 BY MS. ARMIJO:

3 Q. Now, when you met him, did he -- did  
4 you -- in 1998, did you ever meet up with him again  
5 during any other time period before you got to  
6 Southern in 2013?

7 A. The next time I met up with him was in  
8 2007.

9 Q. And where was that at?

10 A. The Penitentiary of New Mexico in Santa  
11 Fe, at the North.

12 Q. And did you spend time with him other  
13 times, as well?

14 A. Yeah, I spent quite a lot of time with  
15 him.

16 Q. Did he ever tell you an incident regarding  
17 him and a person named Rhino?

18 A. He told me about the incident that  
19 happened between him and Rhino in 2012 at the PNM  
20 South facility, where we were both housed together.

21 Q. And what did he tell you about that  
22 incident?

23 A. He told me that he stabbed Rhino.

24 Q. Did he say when that was?

25 A. In 2006 or '05.

1 Q. Now, when you -- at any point when you  
2 were housed with him or near him, do you know  
3 whether or not he had any sort of leadership  
4 responsibilities for SNM?

5 A. He was a leader in the SNM organization.

6 Q. He was one of the leaders?

7 A. He was one of the leaders. He was a role  
8 model to me. I looked up to him.

9 Q. Did you consider yourself close to him?

10 A. Close enough to make him the godfather to  
11 my daughter.

12 Q. Now, going to Carlos Herrera, do you know  
13 Carlos Herrera?

14 A. Yes, ma'am.

15 Q. And how do you know Carlos Herrera?

16 A. Just being housed with him at different  
17 facilities.

18 Q. Is he an SNM Gang member?

19 A. Yes, ma'am.

20 Q. Do you see him in the courtroom?

21 A. Yeah. He's right behind you.

22 Q. What's he wearing?

23 A. A striped shirt.

24 Q. What color is it?

25 A. White and blue.

1 MS. ARMIJO: May the record reflect the  
2 identification of Carlos Herrera?

3 THE COURT: The record will so reflect.

4 BY MS. ARMIJO:

5 Q. Now, you indicated he was an SNM Gang  
6 member. Did you used to ever do business with any  
7 of his family members?

8 A. Yeah, I used to do business with his  
9 mother.

10 Q. What kind of business?

11 A. I used to buy heroin from her.

12 Q. To use or to sell?

13 A. To sell.

14 Q. And when would you -- when was that?

15 A. I started buying heroin from her in 1998.

16 Q. And when did you stop buying heroin from  
17 her, if you did?

18 A. I stopped buying heroin from her around  
19 2004.

20 Q. Now, you were incarcerated during that  
21 time; correct?

22 A. I was incarcerated up to 2003, so I had  
23 bought heroin from her when I got out.

24 Q. Now, Rudy Perez. Do you know Rudy Perez?

25 A. I do.

1 Q. And is he in the courtroom today?

2 A. Yes.

3 Q. Where is he seated?

4 MR. VILLA: We'll stipulate.

5 THE COURT: Is that sufficient, Ms.

6 Armijo?

7 MS. ARMIJO: Yes.

8 BY MS. ARMIJO:

9 Q. When did you meet Rudy Perez?

10 A. I met Rudy Perez in 2015.

11 Q. Where at?

12 A. At the PNM North facility.

13 Q. And do you recall approximately when in  
14 2015?

15 A. Approximately August.

16 Q. And you said it was at the North facility;  
17 is that correct?

18 A. Correct.

19 Q. Is that where you were being housed?

20 A. Yes, ma'am.

21 Q. Do you know him or whether or not he is an  
22 SNM Gang member?

23 A. He is an SNM Gang member.

24 Q. And I guess I should just ask: When you  
25 were at that in 2015 and housed at the North

1 facility, were you being housed with other SNM Gang  
2 members?

3 A. Yes, ma'am.

4 Q. Was it an SNM pod?

5 A. Yes, ma'am.

6 Q. Did you ever have conversations with Rudy  
7 Perez?

8 A. I had one particular conversation with  
9 Rudy Perez in the yard.

10 Q. In the yard?

11 A. Yes, ma'am.

12 Q. So would he come out to the yard at times?

13 A. He was out at this particular time, due to  
14 a shakedown.

15 Q. And you say "shakedown." What are you  
16 referring to?

17 A. The facility was shaken down, the pod that  
18 we lived in, to look for contraband.

19 Q. When you say they're shaking it down, does  
20 that mean that correctional officers basically are  
21 going through all the property to look for  
22 contraband?

23 A. Yes, ma'am.

24 Q. What did he tell you? "He" being Rudy  
25 Perez.

1           A.     He just let me know that, you know, he was  
2 down to do whatever needed to be done, regardless of  
3 his circumstances; which he was in a wheelchair at  
4 the time. So he just wanted to let me know that he  
5 was still able to do whatever he could do,  
6 regardless of his restraint.

7           Q.     Now --

8           MS. JACKS: Excuse me. Your Honor, we'd  
9 ask that be limited.

10          THE COURT: All right. That statement  
11 will be limited just in your considerations to the  
12 charges against Mr. Perez and not against the other  
13 three defendants.

14 BY MS. ARMIJO:

15          Q.     Did he indicate anything to you about  
16 underestimating?

17          A.     Just underestimating his ability to put in  
18 work due to his circumstances. And put in work, I  
19 mean kill, if need be.

20          Q.     Do you know somebody by the name of  
21 Anthony Ray Baca?

22          A.     Yes, ma'am.

23          Q.     I'm sorry, I didn't ask this: Daniel  
24 Sanchez, did he have a nickname in the gang?

25          A.     Dan Dan, Country Dan.



1 Q. What about Carlos Herrera? Do you know  
2 whether or not he had a nickname?

3 A. Lazy.

4 Q. Rudy Perez. Do you know if he had a  
5 nickname?

6 A. Ru Dog.

7 Q. And Anthony Ray Baca. Do you know who  
8 that is?

9 A. Yes, ma'am.

10 Q. Do you see him in the courtroom today?

11 A. Yes.

12 Q. And where is he?

13 A. In the back.

14 Q. What's he wearing?

15 A. A suit.

16 Q. What color?

17 A. Black, white, the tie.

18 MS. ARMIJO: May the record reflect  
19 identification of Anthony Baca?

20 THE COURT: The record will so reflect.

21 BY MS. ARMIJO:

22 Q. Does he have a nickname within the gang?

23 A. Pup.

24 Q. And when was it that you met Pup?

25 A. I met Pup in 2013 at the Southern New

1 Mexico Correctional Facility here in Las Cruces.

2 Q. When you met him, were you aware of  
3 whether or not he had a position within the gang?

4 A. I knew about his position and him being  
5 well-respected within the organization while he was  
6 out of state before he even came back, before I met  
7 him.

8 Q. And then once you met him, were you able  
9 to come to an opinion as to what position he would  
10 have?

11 A. Immediately, as soon as he came to the  
12 facility.

13 Q. And what position was that?

14 A. Commander in chief.

15 Q. Of?

16 A. The SNM organization.

17 Q. Now, you indicated that you were at  
18 Southern. Do you recall approximately when you got  
19 to Southern and when you left for the last time?

20 A. I got to Southern in 2013 of October -- of  
21 October, I believe. Or 2012 of October. And I left  
22 November 27 of 2013.

23 Q. And what led, if you are even aware, to  
24 you being moved from Southern?

25 A. Being apprehended with a weapon that was

1 found in my cell.

2 Q. Is that the weapon that we saw the  
3 conviction that you had for an additional year  
4 incarceration and on probation?

5 A. Yes.

6 Q. Are you still on probation for that matter  
7 right now?

8 A. Yes, ma'am.

9 Q. So they found you with a shank, and  
10 eventually you were moved back north?

11 A. Yes, ma'am.

12 Q. And when I say "back north," I should say  
13 to the North facility?

14 A. Yes, ma'am.

15 Q. Prior to you going and leaving in October  
16 of 2013, did you have conversations with Anthony  
17 Baca?

18 A. I had several conversations with Anthony  
19 Baca.

20 Q. And how is it that you were able to have  
21 conversations with him? Was he in the same pod or  
22 were you near each other? Tell the jury about that.

23 A. We were able to have conversations when he  
24 was outside during his rec time and he could get  
25 pretty close to my window, my cell. We would write

1 huilas to each other, which are letters, just  
2 expressing whatever is going on in the pod, or just  
3 stuff that we would talk about. Business. Drugs,  
4 business, that me and him had together.

5 Q. Okay. And when you talked business, did  
6 you eventually ever have an opportunity to go to the  
7 yard with him?

8 A. Yes, I went to the yard with him.

9 Q. Okay. Did you ever have any conversations  
10 with him -- let me ask this: At some point after  
11 the issue with the shank, with the weapon that was  
12 found, were you placed in a different area at  
13 Southern?

14 A. Yes, ma'am.

15 Q. Where were you placed?

16 A. In segregation.

17 Q. Where were you before you were placed in  
18 segregation?

19 A. In population.

20 Q. What pod were you in?

21 A. I was in green pod.

22 Q. And then you were sent to discipline; is  
23 that correct?

24 A. I was sent to disciplinary unit, yes,  
25 segregation.

1 Q. And did you have any conversations with  
2 Anthony Baca while there?

3 A. Yes, ma'am.

4 Q. Now, during all the times that you spoke  
5 to Anthony Baca in 2013, did he ever have a  
6 conversation with you regarding the potential that  
7 he was going to be leaving Southern?

8 A. Yes, ma'am.

9 Q. Tell us about that.

10 A. He -- we would go to yard and segregation  
11 together and discuss plans that he wanted to put in  
12 place before he left the facility, one of the plans  
13 being to murder Javier Molina.

14 There was another high-ranking official  
15 member that was within our organization that was  
16 also locked down with us. His name was Roy  
17 Martinez; they call him Shadow. He was also in  
18 segregation because he got caught with a weapon,  
19 just like me. We would have meetings together and  
20 discuss what he wanted done. And what he wanted  
21 done was to push a hit towards New Mexico  
22 correctional facility officials.

23 Q. Okay. And did he ever tell you, if  
24 anyone, who he wanted to have hit? And when you say  
25 "hit," what do you mean?

1 A. Hit, I mean killed.

2 Q. And who were those individuals?

3 A. There was three individuals that were  
4 mentioned: Dwayne Santistevan, who was the STIU  
5 director; Gregg Marcantel, who was the Secretary of  
6 Corrections; and Dwayne Santistevan, Jr., which is  
7 the son of the STIU director.

8 Q. Was there anyone -- did he tell you  
9 anything as far as plans to try and get this  
10 accomplished?

11 A. As far as plans to get -- yeah, his plan  
12 was to send the assailants to murder Javier Molina,  
13 comprehending that we would be locked down, the SNM  
14 would be locked down as a group, as an organization.  
15 And then there was two other members of the  
16 organization that were about to be released to the  
17 streets within a six-to-seven-month period, and he  
18 would order them to carry out the assassination of  
19 the correctional facility officials.

20 Q. Was there anybody -- you mentioned Javier  
21 Molina. Did he indicate that he wanted that hit to  
22 happen, as well?

23 A. Yes, ma'am.

24 Q. And you said that these conversations --  
25 do you recall approximately when they took place?

1 A. These conversations took place in July and  
2 the first week of August 2013.

3 Q. You indicated that he was in segregation  
4 with you?

5 A. Correct.

6 Q. At some point, does he get shipped back up  
7 north?

8 A. Yes, ma'am.

9 Q. And then later on, do you follow and go up  
10 north as well?

11 A. Yes, ma'am.

12 Q. So you were not at Southern when Javier  
13 Molina was killed in March of 2014?

14 A. No, ma'am.

15 Q. Where were you?

16 A. I was at the PNM North facility in Santa  
17 Fe, New Mexico.

18 Q. I'm going to kind of jump forward a little  
19 bit to late 2014. What is going on with you then?  
20 You're still in corrections at PNM North?

21 A. Yes, ma'am.

22 Q. And are you still an SNM Gang member?

23 A. Yes, ma'am.

24 Q. Where were you? Were you being housed  
25 with any other SNM Gang members?

1           A.     I was. Yeah, a whole pod of SNM Gang  
2 members.

3           Q.     Had a lot of SNM Gang members that were  
4 previously at Southern been moved up to the North?

5           A.     Yes, ma'am.

6           Q.     And were you in the pod with a lot of --  
7 well, you were in a pod that was strictly PNM; is  
8 that correct?

9           A.     Yes, ma'am.

10          Q.     So at some point, did you decide to reach  
11 out to law enforcement to possibly cooperate with  
12 law enforcement?

13          A.     Yes, ma'am.

14          Q.     Okay. Tell us about that.

15          A.     In 2015, I asked to speak to the STIU  
16 Captain, Captain Sapien, and asked him if he would  
17 take me to speak to the FBI, because I felt that I  
18 had valuable information that I felt that they  
19 needed to know.

20          Q.     And you said it was in 2015. Was that  
21 early 2015?

22          A.     Yes, ma'am.

23          Q.     And did you immediately meet with the FBI,  
24 or did it take a little bit of time?

25          A.     It took about a week.



1 Q. Did you eventually meet with the FBI?

2 A. Yes.

3 Q. Why did you decide to do that?

4 A. I just felt like it was time for me to  
5 make the right decision and change my life and do  
6 the right thing. And I felt like the SNM was trying  
7 to take lives of people, when they shouldn't be  
8 taking lives of anybody. And I just wanted to go  
9 against it.

10 Q. What was going on with SNM at the time? I  
11 mean, were there still lockdowns going on, or were  
12 they out in the yard? I mean, were there tensions?  
13 Were things good? What was going on?

14 A. There was tension. It's an organization,  
15 so there's always going to be tension in politics.  
16 We were all locked down at the time, probably for a  
17 year, a year and a half, maybe, we had been locked  
18 down.

19 Q. Did you even -- had you started anything  
20 to try and get out of lockdown?

21 A. A few of the SNM members, including  
22 myself, had filed a lawsuit against the Department  
23 of Corrections for cruel and unusual punishment  
24 because we felt like we were being punished for an  
25 action that happened outside of the facility that we

1 were being housed at. And we felt that we were  
2 being locked down for a reason that we shouldn't be  
3 locked down.

4 Q. You're referring to the Javier Molina  
5 incident?

6 A. Yes, ma'am.

7 Q. And so when you say "a few of us," who  
8 were you being -- if you know, who else came to this  
9 decision to try and file a lawsuit against  
10 Corrections?

11 A. I believe it was the whole pod, but I know  
12 myself, Timothy Martinez, and Roy Martinez filed for  
13 sure.

14 Q. Roy Martinez; what is his nickname?

15 A. Shadow.

16 Q. And did Shadow -- do you know whether or  
17 not, at any point in time, he had a higher position  
18 within the SNM?

19 A. He was a high-ranking official, yes,  
20 ma'am.

21 Q. Were you housed by someone named Robert  
22 Martinez? Or you may not recall.

23 A. Yes, ma'am.

24 Q. Who is Robert Martinez?

25 A. Robert Martinez is Baby Rob.

1 Q. And what was his position with the gang?

2 A. He was also a high-ranking official in the  
3 organization.

4 Q. You mentioned Timothy Martinez. Was he  
5 being housed up there in 2015 for at least part of  
6 the time?

7 A. He would go back and forth.

8 Q. And between there and where, if you are  
9 aware?

10 A. Here.

11 Q. Here, as in Southern New Mexico  
12 Correctional Facility?

13 A. Yes, Southern New Mexico Correctional  
14 Facility.

15 Q. So you decided to cooperate, and you met  
16 with the FBI; is that correct?

17 A. Correct.

18 Q. And when you met with the FBI, in general,  
19 did you tell them a variety of things?

20 A. Yes, ma'am.

21 Q. And what sort of things or topics did you  
22 discuss with them?

23 A. I discussed the topic of the murder that  
24 happened; the Javier Molina murder, the hit that Mr.  
25 Baca wanted to conduct against New Mexico

1 correctional facility officials.

2 Q. Did you talk about the SNM in general and  
3 SNM members?

4 A. I talked about some SNM members, yes,  
5 ma'am.

6 Q. Would it be fair to say that -- and which  
7 FBI agent did you meet with?

8 A. Katie.

9 Q. Would it be fair to say that was kind of  
10 like an introductory meeting with her? Was it -- I  
11 mean, you told her things, but how long had you been  
12 an SNM Gang member?

13 A. I told her things, but it wasn't really  
14 official that I was going to work with the FBI on  
15 anything, if that's what you're asking me.

16 Q. Kind of. You told her about a variety of  
17 things that you could assist with.

18 A. Yes, ma'am.

19 Q. And you'd been an SNM member since 2003,  
20 so over 12 years; correct?

21 A. Yes, ma'am.

22 Q. Is it fair to say that in that first  
23 meeting with Agent Katie Brusuelas, you were not  
24 able to cover everything that had happened since you  
25 were an SNM Gang member?

1 A. Yes, ma'am.

2 Q. Now, at some point, are you signed as an  
3 FBI cooperator?

4 A. Yes, ma'am.

5 Q. And was she the initial agent that signed  
6 you up?

7 A. Yes, ma'am.

8 Q. And as part of that, what was your initial  
9 understanding as to what you could do?

10 A. Follow the law, for sure.

11 Q. I'm sorry?

12 A. Follow the law. Abide by the law.

13 Q. Abide by the law is one of the things they  
14 wanted you to do; correct?

15 A. Yes.

16 Q. But since you were incarcerated, was there  
17 a proactive thing that they asked you to do? For  
18 instance, did they ask you to record anybody?

19 A. They asked me to record Robert Martinez,  
20 which is Baby Rob; and Roy Martinez, which is  
21 Shadow.

22 Q. And at this point in time when you  
23 initially had agreed to cooperate in recording  
24 individuals, where was Anthony Baca?

25 A. Anthony Baca was out of state at this

1 time.

2 Q. And where were you housed -- and did you  
3 agree to record?

4 A. Yes, ma'am.

5 Q. Okay. So -- and I don't want you to  
6 describe any devices or anything, but were you  
7 initially given a recording device by the FBI to  
8 record Roy Martinez and Robert Martinez?

9 A. Yes, ma'am.

10 Q. And where were you housed in relationship  
11 to where they were?

12 A. We were housed at the PNM North facility  
13 in Santa Fe, New Mexico.

14 Q. Okay. And where was your cell in  
15 connection to theirs, if you recall?

16 A. My cell was the middle cell, and they were  
17 on the opposite sides of me.

18 Q. The device that they gave you -- was it a  
19 device that was battery-operated, or was it  
20 electrical? What was the source of power?

21 A. It was an on-and-off device.

22 Q. And did you have -- who controlled the  
23 on-and-off part of it?

24 A. Myself. I did.

25 Q. And when you say "on-and-off," did it

1 have -- was it operated by a battery source?

2 A. It was operated by a AAA battery.

3 Q. And did you record Robert Martinez and Roy  
4 Martinez?

5 A. Yes, ma'am.

6 Q. At some point in time was a different  
7 device ever given to you?

8 A. Exchanged, yes, ma'am.

9 Q. And did you have problems with the first  
10 device, if you recall?

11 A. I was -- the devices they gave me had to  
12 be -- they had to download the data information that  
13 was already recorded onto it. So they would give me  
14 a new one while they were downloading that one.

15 Q. So you would receive a new device to  
16 record -- to continue your recordings?

17 A. Yes, ma'am.

18 Q. Now, when you're making recordings, did  
19 you start out every time, when you turn it on, by  
20 saying, "Today's date is May 12 and this is Eric  
21 Duran in North facility?" Or would you just have to  
22 turn it on?

23 A. Sometimes I would just have to turn it on,  
24 and just depending, because, you know, you could  
25 hear very well in those cells, so it would be kind

1 of hard for me to state my name and the time and  
2 date without those individuals hearing me.

3 Q. And so were you aware of whether or not  
4 all the conversations that you had were being  
5 captured or whether or not there may have been times  
6 that the battery was dead?

7 A. Really, I wasn't sure what was being  
8 captured because I never heard the recordings after  
9 I gave them the device.

10 Q. Did the correctional officers that housed  
11 you, the day-to-day officers -- were they aware that  
12 you were cooperating?

13 A. No, ma'am.

14 Q. Is it fair to say that very few people  
15 within Corrections knew that you were a cooperator?

16 A. I would say two people knew.

17 Q. Now, at some point in time, was Anthony  
18 Ray Baca returned to the state and placed next to  
19 you?

20 A. Yes, ma'am.

21 Q. And do you recall when that was?

22 A. That was in October of 2015.

23 Q. At some point in time did you get a  
24 different FBI agent to work with? You indicated  
25 that it was Katie first. At some point in time were



1 you switched over to another agent?

2 A. I was switched over to Agent Acee in 2015  
3 of May.

4 Q. And from that point on, did he -- was he  
5 your primary person with the FBI to have contact  
6 for, as far as the investigations?

7 A. Yes, ma'am.

8 Q. And did you sign a new contract with Bryan  
9 Acee, FBI, if you recall?

10 A. Yes, ma'am.

11 Q. And did you continue to do recordings?

12 A. Yes, ma'am.

13 Q. At some point in time, in addition to  
14 having a recorder, were you also provided with a  
15 cellphone?

16 A. Yes, ma'am.

17 Q. Who provided you the cellphone?

18 A. Bryan Acee provided me the cellphone.

19 Q. Did you know, when you were given the  
20 cellphone, that it had a wiretap on it?

21 A. Yes, ma'am.

22 Q. And did you agree to go ahead and use it?

23 A. Yes, ma'am.

24 Q. What was the purpose of the cellphone?

25 A. The purpose of the cellphone was to

1 conduct drug deals on the streets, with other SNM  
2 members, and to utilize it to put Pup's plan into  
3 play.

4 Q. Now, I believe it was 2008 that you had  
5 been caught with a cellphone before?

6 A. Yes, ma'am.

7 Q. Is it highly unusual for an inmate to have  
8 a contraband cellphone?

9 A. It depends on who you are. It wasn't  
10 highly unusual for me to have one.

11 Q. Okay. You were caught with one before, in  
12 2008; correct?

13 A. Yes, ma'am.

14 Q. Did you have others during the time that  
15 you were in Corrections?

16 A. Yes, ma'am.

17 Q. Do you know if other inmates up at the  
18 North from time to time would also have contraband  
19 cellphones?

20 A. Very few.

21 Q. Now, you said, though, that for you it  
22 wasn't uncommon.

23 A. It wasn't uncommon, no, no.

24 Q. So you have a cellphone. In addition to  
25 the cellphone, do you still have a recording device?

1 A. Yes, ma'am.

2 Q. A recording device. Is it one that you  
3 operated and turned on and off, again, still?

4 A. Yes, ma'am.

5 Q. Now, we're going to October of 2015. You  
6 indicated that Anthony Baca returned?

7 A. Yes, ma'am.

8 Q. And where was he placed?

9 A. Right next to me.

10 Q. And when he was placed next to you, did  
11 you have an opportunity to talk to him?

12 A. Yes, ma'am.

13 Q. Now, with the other recordings, were you  
14 able to then have both telephone conversations with  
15 people that were recorded? Okay. You used the  
16 cellphone that was provided to you; is that correct?

17 A. Correct.

18 Q. And let's talk about the cellphone. You  
19 indicated that you were setting up drug deals. Did  
20 you set up drug deals with Chris Garcia?

21 A. Yes, ma'am.

22 Q. And did you have conversations with Chris  
23 Garcia?

24 A. Yes, ma'am.

25 Q. And I'm going to be specific. From

1 October through December 3, approximately, of 2015,  
2 would you have conversations during that time  
3 period?

4 A. Yes, ma'am.

5 Q. And you were aware that the cellphone that  
6 you had was being -- that everything was being  
7 captured on it?

8 A. Yes, ma'am.

9 Q. Did you do anything else, any other  
10 conversations? You said Chris Garcia. Did you have  
11 conversations with somebody by the name of Mario  
12 Montoya?

13 A. Yes, ma'am.

14 Q. The time that you were having  
15 conversations with Mario Montoya, did you know that  
16 he was actually cooperating with the FBI, much like  
17 yourself?

18 A. No, ma'am.

19 Q. Did you have -- you indicated that you --  
20 let me ask you. What other people associated with  
21 SNM did you have conversations with?

22 A. Besides Anthony Baca?

23 Q. Yes. On the phone. I mean, did you have  
24 conversations with any of Anthony Baca's relatives?

25 A. I had conversations with his wife or

1 girlfriend, Yvonne; his cousin Claudette; his  
2 mother.

3 Q. I'm going to stop you there because you  
4 said three people. Claudette. You said that is  
5 his --

6 A. His cousin.

7 Q. Is Claudette -- is she related in any way  
8 to Chris Garcia?

9 A. She's Chris Garcia's girlfriend, I  
10 believe.

11 Q. And when you say you had conversations  
12 with her, when you had these conversations, was  
13 Anthony Baca present for them, as far as in the cell  
14 next door?

15 A. Yes, ma'am.

16 Q. And you indicated you had conversations as  
17 well with Anthony Baca's mother and his girlfriend  
18 or wife?

19 A. Yes, ma'am. Girlfriend, wife.

20 Q. And at whose directions were these  
21 conversations?

22 A. Anthony Baca's.

23 Q. Did you have -- did you use the phone for  
24 things that you weren't supposed to?

25 A. I used the phone, yes.

1 Q. Okay. Go ahead, tell us.

2 A. I just used the phone to make it seem as  
3 real as I could, as if it was really my phone,  
4 without it being too obvious that I was working with  
5 the FBI. Such as just texting other women, sending  
6 pictures of myself to women. Nothing explicit,  
7 really.

8 Q. Send a selfie?

9 A. Maybe check the Fantasy Football stats.

10 Q. Were you at some point told not to use the  
11 internet?

12 A. Yes, ma'am.

13 Q. All right. Now, when we're talking about  
14 a phone, are we talking about, like, a brand-new  
15 iPhone, or what type of phone was it?

16 A. It was a flip phone.

17 Q. Okay.

18 A. With a real small screen.

19 Q. Was it hard to send text messages?

20 A. It was hard to see text messages.

21 Q. So nothing high-dollar?

22 A. No.

23 Q. Now, so is it fair to say that you had --  
24 in addition to the phone calls that were made, that  
25 you made, you had the recorder as well; correct?

1 A. Correct.

2 Q. And was this the same situation where you  
3 were not able to all the time say, Today's date is,  
4 you know, such-and-such and I'm talking to Anthony  
5 Baca?

6 A. Correct.

7 Q. Because that would have been obvious?

8 A. Yes, ma'am.

9 Q. Did you keep the recorder on the entire  
10 time, or were you turning it on and off?

11 A. During the phone calls or --

12 Q. No, a recorder.

13 A. No, I would keep it on as long as I could,  
14 as long as necessary without trying -- you know,  
15 without wasting the battery life.

16 Q. Okay. Was it on 24/7, or would you -- at  
17 some point would you just be talking with, for  
18 instance, Anthony Baca, and then when you got into  
19 things that you thought were relevant, would you  
20 turn it on then?

21 A. Yes, ma'am.

22 Q. Okay. Which is it? Because I gave you  
23 two examples.

24 A. I would try to conserve battery life. So  
25 if whatever he was talking about wasn't really

1 relevant to anything that was happening as far as  
2 SNM business or the case as far as the hit, then I  
3 wouldn't turn it on. If he was just talking about  
4 his mom being sick or something like that, I  
5 wouldn't record that.

6 Q. And with that, I think I'm going to start  
7 with the admission of, I believe --

8 MS. ARMIJO: If I may have a moment?

9 THE COURT: You may.

10 MS. ARMIJO: With Exhibit 368?

11 MS. DUNCAN: May we approach just a  
12 moment, Your Honor?

13 THE COURT: You may.

14 (The following proceedings were held at  
15 the bench.)

16 MS. DUNCAN: Your Honor, this is an  
17 exhibit we haven't asked the Government to redact.  
18 We just have a general objection to it. This  
19 exhibit is discussing that rayo chart we've seen  
20 before. It was clear from this transcript that it's  
21 purely aspirational; that no part of this plan was  
22 ever put into operation. So we've objected in the  
23 past, and we renew that objection.

24 THE COURT: All right. Well, I'll allow  
25 this into evidence. So this would be -- Exhibit 368



1 will be admitted into evidence.

2 (The following proceedings were held in  
3 open court.)

4 (Government Exhibit 368 admitted.)

5 THE COURT: All right. Ms. Armijo.

6 MS. JACKS: And Your Honor, for the  
7 record, we have the same objections that we had  
8 earlier and would request a limiting instruction.

9 THE COURT: All right. These recordings  
10 of Mr. Baca that are being made can only be  
11 considered in your deliberations as to the charges  
12 against Mr. Baca. They can't be used or considered  
13 against either -- any of the other defendants in the  
14 case.

15 MS. ARMIJO: And if we could start with  
16 clip 1.

17 (Tape played.)

18 BY MS. ARMIJO:

19 Q. Mr. Duran, on the transcript -- and the  
20 jury, I believe, has already been told several times  
21 that the audio portion is what's important, as  
22 opposed to the transcript. But the transcript is  
23 just here to assist.

24 Now, there is a person there that says  
25 "Pup." Who is that?

1 A. Anthony Baca.

2 Q. And it says "CHS." Who is that?

3 A. Myself.

4 Q. And in this conversation it appears that  
5 you're talking about rayos and lieutenants and  
6 carnals. What, in general, is this conversation  
7 about?

8 A. He's describing the way that the  
9 organization is going to function.

10 Q. Okay. And did he have a plan?

11 A. He's expressing his plan within these  
12 recordings.

13 Q. Okay. And that is what we're listening to  
14 right now?

15 A. Yes, ma'am.

16 Q. All right.

17 (Tape played.)

18 Q. He's mentioning different places and  
19 putting people in positions. What did you take that  
20 to mean?

21 A. The basis of what he's trying to explain  
22 as far as the foundation that he wants to enforce is  
23 only making people able to control their counties in  
24 which each county that he just expressed as far as a  
25 region. And the Zia symbol has the rayos, or all

1 the rays. So each county would be on there. And if  
2 I was the lieutenant, then I would be able to  
3 control only my region, and nobody else can control  
4 my region or know what's going on within my region.

5 Q. All right. We'll continue.

6 (Tape played).

7 Q. Just really quick, I have a couple of  
8 questions. It says up there, "where they're at  
9 inside the pinta." What is the pinta?

10 A. Prison system.

11 Q. And calles, for those that don't speak  
12 Spanish. What does calles mean?

13 A. Streets.

14 (Tape played.)

15 Q. Okay, now, Mr. Duran, there was a mention  
16 in this last portion that we played about "go  
17 collect tribute from carnals." Do you know what  
18 that's in reference to?

19 A. Yeah. Collect, like, taxes from other  
20 members of the SNM organization.

21 Q. And then we're talking about feria. What  
22 is feria?

23 A. Money.

24 Q. Then we're going to go to clip 2.

25 (Tape played.)

1 Q. What is it that you're doing here during  
2 this part of the conversation? It sounds like  
3 you're talking about a bunch of different places.

4 A. Talking about a variety of counties, and  
5 he's teaching me the counties that I have no  
6 knowledge to.

7 Q. Okay. And why are the different counties  
8 important?

9 A. Because they represent a part of the ray  
10 in the Zia symbol.

11 (Tape played.)

12 Q. Now, there is talk there about paying  
13 tribute again and breaking off with \$50 a month.  
14 What is that in reference to?

15 A. He's saying that there could be members  
16 out there that don't really want to get involved in  
17 trouble, but they can still pay tribute by donating  
18 money towards the cause, the SNM organization.

19 Q. And is this people out on the street?

20 A. Yes, ma'am.

21 Q. Okay.

22 THE COURT: Ms. Armijo, would this be a  
23 good time for us to take our evening break?

24 MS. ARMIJO: Sure, Your Honor.

25 THE COURT: All right. I appreciate your

1 hard work. I appreciate the way you've gone about  
2 your task. I think I speak for the parties, the  
3 lawyers and the Court.

4 All right. We'll see you back at 8:30 in  
5 the morning. All rise.

6 (The jury left the courtroom.)

7 THE COURT: All right. We'll see y'all in  
8 the morning. Thanks for your hard work.

9

10

11 February 21, 2018

12 THE COURT: All right. We'll go on the  
13 record. I appreciate everybody being here and on  
14 time and ready to go.

15 A couple of things I have. I think I made  
16 a decision on the 304 and 305. One is a transcript  
17 and the one is the other. The one thing that I  
18 don't think was pointed out in the briefing, I said  
19 that the Government had now presented admissible  
20 evidence but I still thought it was a call that I  
21 needed to give some thought to.

22 The thing that occurred to me overnight  
23 last night, I thought about it last night, then  
24 thought about it some more this morning, that I  
25 think puts me over the top on this one is that there

1 has been testimony that the rules of the SNM  
2 organization are that if someone is disrespected,  
3 they are ordered to take care of it. And so it  
4 seems to me that the evidence could be -- a  
5 reasonable jury could infer beyond a reasonable  
6 doubt that Mr. Baca was following orders at the time  
7 that he killed Mr. Velasquez. And so I think that,  
8 combined with the other evidence that the Government  
9 points to in its briefing, which is admissible  
10 evidence, some of which is already in, some of which  
11 will come in, is sufficient to allow the portions of  
12 the tape that deal with the Velasquez killing and  
13 Mr. Baca's statements about it to come in. So I'm  
14 going to overrule the objection to that and allow  
15 the Government to put that on.

16 I don't have anything written on what Ms.  
17 Duncan handed to me last night, but I'll give  
18 everybody a heads-up. I do agree with many of the  
19 things that Ms. Duncan is pointing out. There are  
20 some statements that seem to me to be assertions of  
21 other people, not Mr. Baca. And there is no  
22 indication that Mr. Baca adopted those statements.  
23 So bear with me as I try to get you something in  
24 writing so that you can make some revisions. But I  
25 did think that many of Ms. Duncan's objection on

1 that were well-taken, and there needs to be some  
2 cleaning up of those.

3 Ms. Duncan's handwritten piece of paper I  
4 think probably should be filed. So I'm going to  
5 file it as Clerk's Exhibit P, if there is no  
6 objection to that, rather than putting it into  
7 CM/ECF. If that's all right with everybody, we'll  
8 put it as Clerk's Exhibit P, so that's where that  
9 handwritten document will go.

10 MR. BECK: No objection, Your Honor.

11 THE COURT: How about y'all? Do y'all  
12 have anything that y'all need to discuss this  
13 morning? Is there anything I can do for you? Mr.  
14 Castellano, Mr. Beck?

15 MR. CASTELLANO: No, Your Honor.

16 THE COURT: All right. Ms. Duncan -- one  
17 thing before you start, Ms. Duncan, I am shipping  
18 back -- I kind of wish now I'd done it yesterday,  
19 but I continue to want to work on them -- but we did  
20 ship back last night probably the first 15, 16 pages  
21 of jury instructions, and this morning we shipped  
22 them all back. So they're being typed this morning.  
23 So you should get a clean set before you leave  
24 today. I hope that's the case, for your sake and my  
25 sake as well.

1 I think everything is in there. I'm not  
2 quite comfortable with the guts of it, the RICO, but  
3 I think it's all in there. I really this weekend  
4 spent the bulk of the time trying to work through  
5 the defendants' objections, which I understand were  
6 mostly -- I think they were mostly Mr. Lowry's, if I  
7 recall, so I spent a lot of time on those. I think  
8 I got everything in there, but it probably is time  
9 that everybody begin to really spend some time with  
10 them. I have a feeling -- and y'all don't have to  
11 admit it or not -- that the jury instructions were  
12 written by Ms. Sirignano, and so there is a lot of  
13 stuff in there that I kind of think y'all aren't  
14 going to want and need. And if you could tell me  
15 that, start pruning this stuff out, it might help us  
16 as we get a little closer to it.

17 But anyway I'll have you a set, I hope  
18 today. I'm losing my legal assistant up in  
19 Albuquerque for a wedding on Friday so I'm going to  
20 try to front-end having her type, so I don't have to  
21 pull law clerks off yet to start typing those. But  
22 you should get a clean set today, and you might  
23 start giving me some thoughts. If there are some  
24 defenses that you're not going to raise, just tell  
25 me and we can pull them out. And if there's some of



1 these instructions that are getting too complicated  
2 because it's just too long of a trial, then we can  
3 start pulling those out. But start giving it your  
4 thoughts.

5 All right, Ms. Duncan.

6 MS. DUNCAN: I just wanted to let the  
7 Court know, when we left yesterday there were two  
8 transcripts that we had not yet conferred with the  
9 Government on redactions, and so Mr. Lowry sent  
10 those to Ms. Armijo this morning, and that is  
11 Government's Exhibit --

12 MS. ARMIJO: I didn't receive it.

13 MS. DUNCAN: You haven't seen it?

14 MS. ARMIJO: I haven't received that.

15 MS. DUNCAN: I'll print out his email. He  
16 cc'd me. It's Government's Exhibit 418-19 and  
17 420-21. Ms. Armijo said she didn't get it, so I'll  
18 print out that email and give it to her. These are  
19 telephone calls that I have some brief portions that  
20 we agree are arguably relevant to the Marcantel  
21 charge. But then there's a lot of historical  
22 talking about it, so-and-so, back in the day, and  
23 we're asking the Court to redact those long  
24 discussions about what other people are doing and  
25 what other people have said.

1 THE COURT: Well, when you give to it Ms.  
2 Armijo, can you give it to me, as well, so that I  
3 can see if I can stay ahead of y'all --

4 MS. DUNCAN: Yes. I'll print that out  
5 right now.

6 THE COURT: -- let the Government redact  
7 those things if I decide it needs to come out.

8 Mr. Villa.

9 MR. VILLA: Just briefly, Judge, a couple  
10 of things. The Government indicates they think they  
11 may rest Friday, Thursday. I know that's a moving  
12 target, but just so that the defense could fill the  
13 time for planning purposes, if we can just keep  
14 abreast as we're getting closer to that time line.  
15 And then in terms of --

16 THE COURT: Let me just ask, because I've  
17 only heard things indirectly. I understood on  
18 Friday, as y'all were making some plans on Friday, I  
19 thought that Mr. Villa needed to have his witnesses  
20 here on Thursday afternoon. I thought y'all might  
21 be resting in that area. Is that still what you're  
22 thinking, or has it shifted over to Friday?

23 MR. BECK: It's possible Thursday  
24 afternoon. I would say probably 50/50 whether it's  
25 Thursday afternoon or Friday morning. We're hoping

1 Thursday afternoon, but it's possible with these  
2 recordings, it could shift into Friday.

3 THE COURT: Okay. All right.

4 MR. VILLA: The defense teams are working  
5 together just to juggle witness availability, but we  
6 don't want to not have our people here and the  
7 Government rest.

8 And then in terms of length of closing  
9 arguments, I know it was discussed at the pretrial,  
10 and I -- instead of appearing for that I appeared in  
11 Orlando, Disney World. But I think that we asked  
12 for 45 minutes, and I'm wondering if the Court might  
13 give us a little more leeway after we've now sat  
14 through four weeks of trial, in terms of time and  
15 when you might want to know that.

16 THE COURT: Well, let me see what  
17 revisions need to be made.

18 Ms. Armijo, you had two and a half. Is  
19 that still what you're looking at?

20 MS. ARMIJO: I think it will depend on the  
21 length of the defense. I think we still want to  
22 reserve that.

23 THE COURT: Still what?

24 MS. ARMIJO: We still want to reserve  
25 that.

1 THE COURT: How about you, Ms. Jacks? You  
2 were looking at an hour and a half. Are you still  
3 looking at an hour and a half?

4 MR. JACKS: I'd like to cut it down, but  
5 for right now I'd like to say that.

6 THE COURT: How about you, Ms. Duncan?

7 MR. LOWRY: She stepped out to make  
8 copies.

9 THE COURT: You had indicated an hour and  
10 a half max. What are you looking at now?

11 MR. LOWRY: Ms. Duncan is going to do the  
12 closing. But we'd reserve that. I'd be surprised  
13 if it was that long.

14 THE COURT: Mr. Maynard, you had 30 or 45  
15 minutes.

16 MR. MAYNARD: I think, Your Honor, if we  
17 could have something closer to like an hour.

18 THE COURT: Well, I'll certainly work with  
19 everybody as we revise this upward. But here's the  
20 reality, I think as we revise this up, there is no  
21 way we can get all the closings in in a day. I know  
22 everybody likes to come in and do closings and get  
23 them all done in a day. But as defendants revise,  
24 it probably means that that's going to be  
25 sacrificed, which is fine. I mean, that's not -- I

1 don't want to make you -- I want to give you time.  
2 But just be mindful that when everybody comes in and  
3 says, "Oh, let's start at 8:30, and get them all  
4 done in a day," it probably can't happen now.

5 MR. VILLA: And Your Honor, I was just  
6 thinking an hour, maybe an hour and 15 minutes. But  
7 I just didn't want the Court, if it was 45 minutes  
8 and I need 15 more, to be surprised or --

9 THE COURT: I understand. I was bracing  
10 myself for that. I thought that given the estimates  
11 people gave, we might be able to maybe have closings  
12 or have instructions on one day, get me out of the  
13 way, and then y'all just have a whole day. But I  
14 think, given that people are expanding, it's  
15 probably going to be too tight. So we won't worry  
16 about it.

17 All right. All rise.

18 (The jury entered the courtroom.)

19 THE COURT: All right. Everyone be  
20 seated. Well, good morning, ladies and gentlemen.  
21 Again, I just can't compliment you enough. I spend  
22 a lot of time sitting here and talking to juries.  
23 And some juries, they kind of wander in and we have  
24 to round them up and things. Y'all have just been a  
25 wonderful bunch to work with. And I certainly speak

1 on behalf of the Court. But I think the parties and  
2 the counsel appreciate your efforts. You've just  
3 been a great bunch to work with, and we appreciate  
4 it very much. So good morning. I appreciate it.

5 All right. We have Mr. Duran coming back.  
6 Let's see if we can get him on the stand. I brought  
7 y'all in before I brought in Mr. Duran, so I'll  
8 pause for just a second.

9 Ms. Duncan, they are the new ones?

10 MS. DUNCAN: Yes, Your Honor.

11 THE COURT: They don't duplicate what was  
12 on the yellow sheet yesterday?

13 MS. DUNCAN: They do not.

14 THE COURT: All right. Mr. Duran, if  
15 you'll come up and sit in the witness box.  
16 Mr. Duran, I'll remind you you're still under oath.

17 All right. Ms. Armijo, if you wish to  
18 continue your direct examination of Mr. Duran, you  
19 may do so at this time.

20 MS. ARMIJO: Thank you, Your Honor.

21 ERIC PRESTON DURAN,  
22 after having been previously duly sworn under  
23 oath, was questioned, and continued testified as  
24 follows:

25 CONTINUED DIRECT EXAMINATION

1 BY MS. ARMIJO:

2 Q. I believe we were on Exhibit 368 on clip

3 2. We can proceed with the end of that.

4 (Tape played.)

5 Q. All right. Mr. Duran, you were talking --

6 I think when we left off yesterday, you were having

7 a conversation with Anthony Baca about the feria,

8 and giving money, the \$50 a month; is that correct?

9 A. Yes.

10 Q. Is this a continuation of that?

11 A. Yes, ma'am.

12 Q. Now, he's talking about something getting

13 bigger and bigger. What is he referring to as far

14 as what you understood?

15 A. He's talking about the tributes getting

16 bigger and bigger, as far as putting it in the bank

17 account and letting it grow.

18 Q. And what was one of the things that he had

19 an idea to use the money for?

20 A. He actually had a few things. He wanted

21 to buy drugs and weapons.

22 (Tape played.)

23 Q. Before we get down too far, there was a

24 line up there that talked about, "and he needs some

25 fucking jefe taken care of." What is "jefe"?

1 A. Shot-caller.

2 Q. And then he goes on talking about "that  
3 fucking 10 grand, or he's going to pay so much in  
4 drogas." What was that in reference to?

5 A. A hit; could be a hit.

6 (Tape played.)

7 Q. Now, it seems there is mention of a  
8 recruiting process. What was your understanding of  
9 a recruiting process? What was that in reference  
10 to, I should say?

11 A. Just recruiting soldiers for jobs.

12 (Tape played.)

13 Q. There was mention there of a term, "Zia  
14 mano." Do you know what that discussion is about?

15 A. Just the brother -- it's self-explanatory,  
16 what he explained, it's the handle of the SNM.

17 Q. And is that a term that has been used  
18 before, or is this a new term?

19 A. It was a created term by him, Anthony  
20 Baca.

21 (Tape played.)

22 Q. There is also a term Zia "Keeskee"?

23 A. Yes.

24 Q. What is that?

25 A. It's a prospect; someone that has to earn



1 the initiatives to get into the gang.

2 Q. Is that a term that had previously been  
3 used, from what you were familiar with, or is that a  
4 new term?

5 A. That's a created term by Mr. Baca.

6 MS. ARMIJO: I'm going to go now to  
7 Exhibit 322 and move for the admission of 322.

8 THE COURT: Any other discussion on that?

9 MS. DUNCAN: Yes, Your Honor, may we  
10 approach?

11 THE COURT: You may.

12 (The following proceedings were held at  
13 the bench.)

14 MS. DUNCAN: Your Honor, on this call,  
15 this is a call about why -- my understanding is, why  
16 they don't send someone, a mole, into the RFPP  
17 program or the dropout program; a later generation  
18 wouldn't know that he was a mole, he was actually a  
19 dropout, and put him in danger. We object to this.  
20 It's a hypothetical conversation and speculation,  
21 and has no relevance to the charges in this case.  
22 And it's highly prejudicial to Mr. Baca. So for  
23 that reason we'd ask the Court exclude it.

24 THE COURT: Ms. Armijo?

25 MS. ARMIJO: Your Honor, it specifically

1 has information about green lighting people, terms  
2 that the jury is familiar with. Again, we're trying  
3 to show that Mr. Baca is the leader; that he is  
4 aware of people. He talks about a specific purpose,  
5 specifically with Cyclone and Psycho. So we'd like  
6 to play the whole call. It's not that long. But it  
7 is relevant, specifically that portion of it.

8 THE COURT: Well, I think these are  
9 showing plan and design, so I think it's appropriate  
10 for these to come in. I don't think there is much  
11 of a 403 problem. I do think there is some  
12 relevance to it, so I'll overrule the objection.

13 MS. BHALLA: Your Honor, can we, just  
14 since we're starting the testimony, again today get  
15 a limiting instruction?

16 THE COURT: Okay.

17 (The following proceedings were held in  
18 open court.)

19 THE COURT: All right. We're going to be  
20 playing tapes this morning. These are conversations  
21 with Mr. Baca. And so again, these can only be used  
22 in your discussions of the charges against Mr. Baca  
23 and not the other three gentlemen.

24 All right, Ms. Armijo.

25 BY MS. ARMIJO:

1 Q. All right. I believe we are on 322.

2 THE COURT: And 322 is admitted into  
3 evidence.

4 (Government Exhibit 322 admitted.)

5 (Tape played.)

6 Q. All right. That's a portion of Exhibit  
7 322. Are you familiar with what that conversation  
8 was in reference to?

9 A. Yes, ma'am.

10 Q. Can you explain that to the jury?

11 A. As far as denouncing, there is a member  
12 that's mentioned in this clip. His name is Psycho,  
13 which is a member that Anthony Ray Baca put a hit  
14 out on in 2013 and got him assaulted for stealing  
15 drugs. And part of that action, he was sent to an  
16 area where people that don't want to be a part of  
17 SNM no more go; it's considered PC, protective  
18 custody. Since he actually wasn't in there because  
19 he wanted to be in protective custody, Anthony Baca  
20 wanted to utilize him to hit people that were in  
21 there for protective custody.

22 Q. All right. So it was a plan about putting  
23 somebody in with the people that are in protective  
24 custody?

25 A. Someone that's already in there, yes.

1 Q. Yes. To use that person?

2 A. Right.

3 Q. All right. And next we're going to go to  
4 Exhibit 294. I move for the admission of 294?

5 THE COURT: Anything else to be said on  
6 294?

7 MS. DUNCAN: Yes, this is the one we were  
8 objecting to the Court yesterday.

9 THE COURT: All right. Let's take a  
10 break. I'm going to have to work on these  
11 transcripts a little bit. So let's be in recess for  
12 a few minutes. All rise.

13 (The jury left the courtroom.)

14 THE COURT: All right. Why don't you give  
15 me the order of the transcripts that you're going to  
16 be using so I can try to stay ahead of you guys?  
17 Can you give me the order?

18 MS. ARMIJO: In the order the defense is  
19 objecting to them?

20 THE COURT: No, the order you're going to  
21 play them, so I can stay ahead of you by giving you  
22 rulings, so I don't slow the jury down.

23 294 is next. What's next?

24 MS. ARMIJO: 292, 376 -- I guess it's 362,  
25 304, 388, 310, 318, 320, 390, 296, 308, 384, 422,

1 420, 416, 328, 330, 344, 418, and 348.

2 THE COURT: Okay. Let me see if I can get  
3 some estimates on time. On 294, about how long of a  
4 tape is it?

5 MS. ARMIJO: Well, it's a long tape, but I  
6 don't believe that the clip that we're going to play  
7 is very long. I don't have the clips broken down by  
8 time period, Your Honor.

9 THE COURT: Okay. All right. Give me a  
10 few minutes, and let me see if I can get these lined  
11 up and in order.

12 MS. DUNCAN: I think there's a couple that  
13 I don't think were on the list that Ms. Armijo gave  
14 me yesterday, so we haven't submitted objections on  
15 that. I haven't gone through the list. And this  
16 would be 304.

17 MS. ARMIJO: Your Honor, I believe 304 is  
18 the one that you indicated this morning that you  
19 were allowing in.

20 MS. DUNCAN: You're right. The other one  
21 is 318.

22 MS. ARMIJO: We're not playing 318.

23 MS. DUNCAN: Then I think we're on the  
24 same page, Your Honor.

25 THE COURT: Okay. Give me a few seconds

1 to look at these things.

2 (The Court stood in recess.)

3 THE COURT: The ones I don't have a  
4 transcript from, 362.

5 MS. DUNCAN: I do object to that one.

6 THE COURT: 388?

7 MS. DUNCAN: I don't object to that one.

8 MS. ARMIJO: A lot of these were not  
9 redacted, so they are in your notebooks under the  
10 exhibit numbers. So we provided the Court with  
11 exhibit numbers, so 388 would be under 388.

12 THE COURT: How about 310?

13 MS. DUNCAN: I don't have an objection.

14 THE COURT: All right. 320?

15 MS. DUNCAN: No objection.

16 THE COURT: And you're not going to be  
17 playing 318; right?

18 MS. ARMIJO: No, I'm not.

19 THE COURT: 296?

20 MS. DUNCAN: I object to that one.

21 THE COURT: 308.

22 MS. DUNCAN: I object to that one.

23 THE COURT: 422?

24 MS. DUNCAN: Objection.

25 THE COURT: 420?

1 MS. DUNCAN: Objection.

2 THE COURT: 416?

3 MS. DUNCAN: Objection.

4 THE COURT: 428?

5 MS. DUNCAN: No objection.

6 THE COURT: 330?

7 MS. DUNCAN: No objection.

8 THE COURT: What was the situation on 331?

9 Did y'all decide not to play it?

10 MS. ARMIJO: So the even numbers are the  
11 recordings, and then the odd number next to it is  
12 going to be the transcript. So I shouldn't have  
13 said any odd numbers.

14 THE COURT: I had neither 330 or 331. So  
15 it doesn't look like I have either one of those.  
16 And on 330 and 331, you have objections?

17 MS. DUNCAN: I do not, Your Honor.

18 THE COURT: Your last one that you have an  
19 objection to is 328?

20 MS. DUNCAN: I do not have an objection on  
21 328 either.

22 THE COURT: All right. How about 416?  
23 Did you have an objection?

24 MS. DUNCAN: Yes.

25 THE COURT: And 330, no objection?

1 MS. DUNCAN: No objection.

2 THE COURT: 331, no objection?

3 MS. DUNCAN: Yes.

4 THE COURT: 344, no objection?

5 MS. DUNCAN: Correct. Then I think we had  
6 an objection to 348.

7 THE COURT: You did have an objection on  
8 348?

9 MS. DUNCAN: Yes, Your Honor.

10 MS. ARMIJO: And Your Honor, if you want  
11 us to go ahead and reprint them for you, we can.

12 THE COURT: Let me just take these back to  
13 the vestibule and get these done. So are you about  
14 to play 294? Is that what's next?

15 MR. BECK: Yes, Your Honor, 294 is next.

16 THE COURT: All right. Let's jump to 292,  
17 293. Then I'll go back and review 294. I'm looking  
18 at pages 6009 to 6011. 292, 293 is the transcript  
19 and the tape. As I think I indicated on these  
20 yesterday, while 801(d)(2)(A) applies to Mr. Baca's  
21 statements, the Mario Rodriguez statements I think  
22 are inadmissible hearsay. I'm not seeing any way to  
23 get those in. Rule 801(d)(2)(A) is not going to  
24 apply to those statements because Mr. Baca didn't  
25 make them. There are some instances where Mr. Baca



1 is making affirmative comments like, "Yeah," and I'm  
2 looking specifically at DeLeon number 6011. Those  
3 statements do not permit the Court to conclude that  
4 Mr. Baca is adopting Mr. Rodriguez' statements or  
5 manifesting a belief that those statements were true  
6 under Rule 801(d)(2)(B). Mr. Baca's affirmative  
7 comments, the ones he's actually making, appear, I  
8 think, to undercut any 801(d)(2)(B) argument. His  
9 statements appear to be contrary and express only  
10 that he has heard and sort of understood what Mr.  
11 Rodriguez' comments are.

12 So let's take out Mr. Rodriguez'  
13 statements there on those two pages.

14 MS. ARMIJO: Your Honor, can we have the  
15 pages again?

16 THE COURT: Those are 6009 to 6011. So it  
17 would be three pages, and let's just take Mr.  
18 Rodriguez' statements out.

19 All right. Let me go look. Let's get the  
20 292, 293. Let me look at 294 and see if I can give  
21 you a ruling on that and get started and keep it  
22 rolling.

23 MS. ARMIJO: And Your Honor, just to be  
24 clear on 6009, I believe the defense was objecting  
25 to the part where Blue says "There is white boy."

1 But before that, on 6009, we were going to go into  
2 that. So I believe what was objected to was where  
3 it starts with Blue saying, "Hey, there was a white  
4 boy." And I'm assuming that's the part that the  
5 Court was referring to?

6 THE COURT: Rodriguez' statements?

7 MS. ARMIJO: Yes.

8 THE COURT: Yeah.

9 (A discussion was held off the record.)

10 THE COURT: Let's go back on the record.  
11 I appreciate your patience. I'm looking at 294,  
12 which is the next one up. I've given you the  
13 rulings on 292, 293. Then I'll try to stay ahead of  
14 you.

15 On 294, 6016, take out -- here is my  
16 rulings. I'm looking for statements that are made  
17 by Mr. Baca, not by Mr. Duran. And so take out most  
18 of this page. In fact, the entire page down to  
19 where it says "Pup" at the very bottom, "They know,  
20 they know." You can leave that in.

21 And I think you can leave, on the next  
22 page, 6017, you can leave "the stuff" -- the first  
23 half of the page, "The stuff is okay." It's against  
24 Mr. Baca.

25 About the middle of the page where it says

1 "CHS: Yeah, that's why I'm saying, that's what he  
2 did, he did, he tried to stop it." That's the CHS.  
3 So that's not okay. So take out the rest of that  
4 page.

5 Continue to redact down to the middle of  
6 the page where it says "Pup," and then it says,  
7 "Baby Rob has always been -- he is my second in  
8 command." You can leave that.

9 Take out what the CHS says in the next  
10 paragraph.

11 And then you can pick back up with the  
12 recording where it says "Pup: That's because Baby  
13 Rob -- Baby Rob seen how I do it now." So you can  
14 leave the rest of the page, what CHS says, what Pup  
15 says.

16 The next page is okay, 619. 620 is okay.

17 621, about the first half of the page, is  
18 okay, down to where it says, "Pup: Yeah." And then  
19 from there you can leave "Pup: Yeah." But the CHS  
20 on 621, "CHS" where it says, "Hey and the thing is  
21 washa these vatos Cyclone and Rabbit," from there on  
22 redact the rest of the page. Redact all of page  
23 622. Redact all of page 623 and all of page 624.

24 And I've given you 692, 693 (sic). I'll  
25 try to look at 376 while y'all are playing those.

1 Are you ready to go?

2 MS. ARMIJO: Not quite. I think the next  
3 clip I was going to play you just redacted part of  
4 it so I'll just need a minute to get that taken out.

5 THE COURT: We'll go ahead and have Ms.  
6 Standridge line up the jury. Ms. Duncan, do you  
7 have something?

8 MS. DUNCAN: Your Honor, the only thing I  
9 would ask is for pages 6013, 6014, and 6015, I  
10 understand that the Court is leaving all that in.

11 THE COURT: Yes.

12 MS. DUNCAN: So most of this is Mr. Duran  
13 speaking, and then with Mr. Baca responding. We  
14 would ask for a limiting instruction as to  
15 Mr. Duran, that what he's saying -- it is hearsay,  
16 and it shouldn't be considered for the truth, but  
17 rather to put into context what Mr. Baca is  
18 responding to.

19 THE COURT: All right.

20 MS. DUNCAN: Thank you.

21 THE COURT: Why don't we do this? While  
22 it's being made, let's wait for the break and then  
23 I'll give it at the appropriate time. I think if I  
24 just try to give it now, it's not going to make any  
25 sense. So why don't you tell me when we're at the

1 place you want, and I'll give it as to those. The  
2 page numbers will be up there.

3 MS. DUNCAN: I don't think so, Your Honor.  
4 But I can follow the transcript, and I'll just pop  
5 up, how we've been doing it with the James.

6 THE COURT: All right. Tell me when you  
7 want it, then.

8 All rise.

9 (The jury entered the courtroom.)

10 THE COURT: All right. We're going to see  
11 if we can give this a try and I'm going to see if I  
12 can stay ahead of the lawyers and the parties. And  
13 we may have to take some breaks here for me to stay  
14 up with them, but we'll see if we can go with this.

15 All right. Ms. Armijo.

16 MS. ARMIJO: All right. I believe we were  
17 on --

18 THE COURT: Mr. Duran, I'll remind you  
19 you're still under oath.

20 THE WITNESS: Yes, Your Honor.

21 BY MS. ARMIJO:

22 Q. I believe we were on 294. If we could  
23 play the first clip.

24 (Tape played.)

25 Q. All right. Mr. Duran, Baby Rob is who?

1 A. Robert Martinez.

2 Q. And is that what this -- the beginning of  
3 this conversation is about?

4 A. Anthony Ray Baca is expressing who his  
5 second in command is, which is his underboss.

6 Q. All right. Play the next clip.

7 (Tape played.)

8 MS. ARMIJO: May I have a moment?

9 (Tape played.)

10 Q. All right. Mr. Duran, a couple of things.  
11 What is brujas?

12 A. Problems.

13 Q. And then when we're talking about "down  
14 there at the main," what is that in reference to?

15 A. The Main is a facility that's in Santa Fe,  
16 New Mexico, one of the first prisons in New Mexico.

17 Q. All right. And is that the one where the  
18 riots happened that closed around 1997, '98?

19 A. That's where the SNM organization was  
20 founded, yes, ma'am.

21 MS. ARMIJO: At this time we move for the  
22 admission of 292.

23 THE COURT: All right. Did you need  
24 anything on that, Ms. Duncan?

25 MS. DUNCAN: Nothing additional, Your

1 Honor.

2 THE COURT: All right. Okay. No  
3 instruction on those pages you had talked about?

4 MS. DUNCAN: No, Your Honor.

5 THE COURT: All right. So Government's  
6 Exhibit 292 will be admitted into evidence.

7 (Government Exhibit 292 admitted.)

8 MS. JACKS: And again, Your Honor, we  
9 would request limiting instructions.

10 THE COURT: These are all statements by  
11 Mr. Baca. So again, these can only be considered in  
12 your deliberation of charges against Mr. Baca and  
13 not the other three gentlemen.

14 All right, Ms. Armijo.

15 BY MS. ARMIJO:

16 Q. All right. We're on 292, clip one.

17 (Tape played.)

18 Q. Now, we just heard a portion of a  
19 conversation. And is that with -- tell us how many  
20 people are talking in this conversation.

21 A. There's three people talking in this  
22 conversation: Myself, Mario Rodriguez, and Anthony  
23 Ray Baca.

24 Q. And where are you at?

25 A. In the discussion or --

1 Q. No, meaning where is -- are you all three  
2 out together, or is this a situation where you're in  
3 your cell and they're on each side of you?

4 A. Yeah, we're all confined in our cells and  
5 we're talking through our vent.

6 Q. Okay. And so what is this in reference  
7 to?

8 A. This is in reference to an inmate that was  
9 an SNM member that Anthony Ray Baca wanted hit,  
10 wanted assaulted or killed.

11 Q. Okay. And do you know -- it says, "That  
12 one that fucking Jake was protecting." Do you know  
13 who Jake is?

14 A. Jake is an SNM member.

15 Q. What is his full name?

16 A. Jake Armijo.

17 Q. If we could go to clip 2.

18 (Tape played.)

19 Q. All right. Now, there's a couple of  
20 different people mentioned here. Do you know who a  
21 Scooby is?

22 A. I know a little bit about Scooby, yes,  
23 ma'am.

24 Q. And what is this conversation in reference  
25 to?



1           A.     This conversation is in reference to what  
2 I explained earlier as far as the inmate that was in  
3 the PC, and Anthony Ray Baca wanted to utilize him  
4 to hit dropouts. So this is actually what he's  
5 explaining in this conversation is why that  
6 individual got hit and for the reasons, which was  
7 stealing Suboxone, drugs.

8           Q.     And who was the individual that was to get  
9 hit?

10          A.     Psycho.

11          Q.     And is this an explanation of that?

12          A.     Yes, ma'am.

13          Q.     All right. And then we're going to go to  
14 clip 3.

15                   (Tape played.)

16          Q.     Now, there it appears that Anthony Baca  
17 was talking about an individual where he's  
18 complaining about the individual being there when  
19 he's been gone out of state. Do you know what  
20 individual he's referring to?

21          A.     I believe he's referring to BB, which is  
22 Javier Rubio.

23          Q.     Okay.

24                   (Tape played.)

25          Q.     Do you know what "si me tiende" means?

1 A. "You know what I mean."

2 Q. And the plan that he's talking to you and  
3 Mario Rodriguez about -- is that the same plan that  
4 he's been referring to earlier?

5 A. The plan we came into the courtroom with,  
6 talking about?

7 Q. Yes.

8 A. Yes, ma'am.

9 Q. All right.

10 (Tape played.)

11 Q. Now, it appears that Mr. Anthony Baca is  
12 saying that "They're the ones to blame; they want to  
13 turn around and blame it all on us and tell the news  
14 media that we're the devil's children, carnal." Who  
15 is he referring to there?

16 A. He's referring to administration.

17 Q. All right.

18 (Tape played.)

19 Q. What is jura?

20 A. Correctional officers.

21 Q. So is that what's referred to when "juras  
22 were already paranoid"? Is that correctional  
23 officers?

24 A. Yes, ma'am.

25 Q. Okay. And then it says, "The whole, I was

1 sending word to the Burquenos." Who's the  
2 Burquenos?

3 A. The Burquenos is a gang from Albuquerque,  
4 New Mexico.

5 Q. And are they considered rivals of the SNM?

6 A. Yes, ma'am.

7 Q. All right. And so during this  
8 conversation, it appeared that through all these  
9 clips it was a conversation including Mario  
10 Rodriguez; is that correct?

11 A. Yes, ma'am.

12 Q. And who was the conversation between? I  
13 mean, who was Anthony Baca talking to? Was he  
14 talking to the two of you, or was he talking more to  
15 one of the two of you?

16 A. He's talking to both of us.

17 Q. All right.

18 MS. ARMIJO: The United States at this  
19 time would move for the admission of 376.

20 THE COURT: 376?

21 MS. ARMIJO: Yes.

22 THE COURT: Why don't y'all approach?

23 (The following proceedings were held at  
24 the bench.)

25 THE COURT: I'm going to rule that this

1 all comes in. There are some Claudette, Yvonne, Mr.  
2 Baca's wife, girlfriend's statements, that I don't  
3 think Mr. Baca adopts, but they put the relevance,  
4 exchange about drugs, and I'm looking specifically  
5 at pages 6275 and 6276 into context, which is for a  
6 nonhearsay purpose.

7 So if you want anything on that, I'd be  
8 glad to give an instruction on that. But as far as  
9 the jury hearing it, I'm going to go ahead and allow  
10 the entire tape to be played.

11 MS. DUNCAN: Okay.

12 THE COURT: So if you get to 6275, 6276,  
13 I'm not saying he adopted those statements; and  
14 those are coming in for a nonhearsay purpose of  
15 putting in context the discussion about the drugs.  
16 So if you need something on it, let me know. All  
17 right?

18 MS. DUNCAN: And Your Honor, is it  
19 possible to read the Bates numbers when you're  
20 playing clips? I've got the full transcript. I'm  
21 trying to catch up with you and it's hard. Is that  
22 okay?

23 MS. ARMIJO: Oh, okay.

24 MS. DUNCAN: Thank you.

25 (The following proceedings were held in

1 open court.)

2 THE COURT: All right. So Government's  
3 Exhibit 376 will be admitted into evidence.

4 (Government Exhibit 376 admitted.)

5 MR. JACKS: And again, Your Honor, we'd  
6 request a limiting instruction.

7 THE COURT: And again, these are tapes of  
8 conversations of Mr. Baca's. So you can only  
9 consider these conversations and tapes of Mr. Baca's  
10 statements in your deliberation of the charges  
11 against Mr. Baca and not against the other three  
12 gentlemen.

13 Ms. Armijo.

14 BY MS. ARMIJO:

15 Q. All right. In reference to Exhibit 376,  
16 Mr. Duran, did you have an opportunity to -- in  
17 addition to talking to Anthony Baca, did you have an  
18 opportunity to talk to -- much like Chris Garcia,  
19 did you talk to any of his family members?

20 A. Whose family members?

21 Q. Anthony Baca's. Sorry.

22 A. Yes, ma'am.

23 Q. And which family members did you talk to?

24 A. Claudette and his mother.

25 Q. Is it Yvette or Yvonne?

1 A. Yvonne. Claudette, Yvonne and his mother.

2 Q. And who is Yvonne Griego?

3 A. His girlfriend or wife. I'm not sure.

4 Q. And did you have an opportunity to have a  
5 conversation with them?

6 A. While he was on the phone?

7 Q. Yes.

8 A. Yes, ma'am.

9 Q. Okay. And at whose request was that?

10 A. At his request.

11 Q. And do you know how many times you spoke  
12 to Yvonne with Anthony Baca as well? Was it more  
13 than once?

14 A. It was more than once.

15 MS. ARMIJO: All right. And I'm referring  
16 to Exhibit Number 376. If we could play the first  
17 clip, which I believe is on Bates 6271.

18 (Tape played.)

19 Q. All right. Is the female that we hear in  
20 there -- is that Yvonne?

21 A. Yes, ma'am.

22 Q. And it sounds like Anthony Baca is saying  
23 something, and are you repeating it to her?

24 A. Yes, ma'am.

25 Q. And who is Baby G?

1           A.     Baby G is one of Anthony Ray Baca's  
2 right-hand man.

3           Q.     Is his name Jonathan Gomez?

4           A.     Yes, ma'am.

5           Q.     Okay. And is this a message that he was  
6 trying to get to Baby G?

7           A.     This is an order that he's passing to Baby  
8 G to kill BB, who is Javier Rubio.

9           Q.     Okay. And so he's trying to get the  
10 message to Baby G about BB?

11          A.     Yes, ma'am.

12          Q.     Okay. And what is -- it says, "Somebody  
13 that's trustworthy, that's not going to go around  
14 talking about it."

15                 Do you know what that was in reference to?

16          A.     He wanted someone to conduct the hit that  
17 wasn't going to go and tell everybody, so it would  
18 remain a secret.

19          Q.     Tell anyone about the hit?

20          A.     Right.

21          Q.     Okay. And did you also have -- in this  
22 conversation was there reference to drug activity?

23          A.     In this conversation?

24          Q.     Not this one that we're looking at, but  
25 did you have conversations with Yvonne and Pup about

1 drug activity?

2 A. Yes. Not in this conversation.

3 Q. All right. Now, if we could go now to --  
4 we'll come back to that one.

5 MS. ARMIJO: At this time, move for the  
6 admission of 262 (sic).

7 THE COURT: You had told me the next one  
8 was going to be 362, so --

9 MS. ARMIJO: I'm sorry, 362.

10 THE COURT: All right. Let me see counsel  
11 then up front here.

12 (The following proceedings were held at  
13 the bench.)

14 THE COURT: I think this one is okay.  
15 There are some Duran statements that aren't adopted  
16 by Mr. Baca, but they're irrelevant; it's not being  
17 offered for the truth of the matter. If you want me  
18 to say something like that, give some limiting  
19 instruction; but I just don't see them being  
20 prejudicial to you. They are irrelevant to what  
21 Duran is saying. If you want me to say something  
22 like that, that they're not being offered for the  
23 truth, I can do that.

24 MS. DUNCAN: I'm less concerned about what  
25 Mr. Duran says as I am about the lack of relevance



1 to this. There is no document that they're going to  
2 show that has the code. This is just sort of a  
3 gossipy kind of conversation, but suggestions to the  
4 jury that are inappropriate, and I'd ask the Court  
5 exclude it on that ground.

6 THE COURT: I think I know what you're  
7 going to say, but you want to tell me why it's  
8 relevant?

9 MS. ARMIJO: It is relevant. He's setting  
10 out things that he wants to have happen. This one  
11 in particular, he's talking about the four-figure  
12 leg lock, and he is going into more activity that he  
13 has planned. And he specifically talks about --  
14 Santistevan's name is specifically brought up during  
15 this conversation.

16 THE COURT: I think there is enough  
17 smattering of relevance in it that it survives any  
18 403 challenge, so I'll allow it. If you want  
19 anything about Duran's statements, I don't think  
20 this is terribly prejudicial or prejudicial at all;  
21 they're irrelevant. If you want an instruction, I  
22 can give it.

23 MS. DUNCAN: All right. I'll see how it  
24 comes out.

25 THE COURT: See what you want.

1 (The following proceedings were held in  
2 open court.)

3 THE COURT: All right. Government's  
4 Exhibit 362 will be admitted into evidence.

5 (Government Exhibit 362 admitted.)

6 MR. JACKS: And Your Honor, again, we'd  
7 ask for the limiting instruction.

8 THE COURT: Again, these are statements by  
9 Mr. Baca, so you can only consider them in your  
10 deliberations as to the charges against Mr. Baca and  
11 not the charges against the other three gentlemen.

12 MS. ARMIJO: If we can go ahead and play  
13 the clip from 362.

14 (Tape played.)

15 BY MS. ARMIJO:

16 Q. All right. And we started a portion of  
17 this transcript, and there is mentioning of some  
18 quotes. What are you talking about here?

19 A. Anthony Ray Baca is discussing and  
20 describing the way he speaks in code talk, and he  
21 said "like the four-figure leg lock." That means  
22 kill.

23 Q. Okay. And what was the purpose of the  
24 code talk?

25 A. The code talk is so correctional officers

1 couldn't understand or comprehend what we were  
2 discussing in our communications.

3 Q. All right.

4 (Tape played.)

5 Q. Okay. Now, here you mentioned that -- you  
6 say to him, "When you wrote that fucker and told  
7 him -- and told him to fucking hit Santistevan," and  
8 you're asking about somebody writing you back. What  
9 are you referring to?

10 A. I'm referring to a coded letter that he  
11 sent to Baby G, which is his right-hand man, to  
12 Southern New Mexico Correctional Facility, which is  
13 here in Las Cruces, and he ordered Baby G to hit  
14 Santistevan in the pod as soon as he could. This is  
15 when he was shipped out of state after the Javier  
16 Molina murder.

17 Q. So does this refer back to the  
18 conversation that you testified about yesterday,  
19 back in 2013? How is it that you knew that he wrote  
20 to Baby G about that?

21 A. Because he's expressing it in this  
22 conversation.

23 Q. All right. Okay. We can go on.

24 (Tape played.)

25 MS. DUNCAN: Your Honor, we'd ask for a

1 limiting instruction on that last statement by Eric  
2 Duran.

3 THE COURT: All right. Mr. Duran is  
4 making certain statements on here. What Mr. Duran  
5 is saying is irrelevant. It's not being offered for  
6 the truth. So you're not to consider what he's  
7 saying for the truth. You're to consider what Mr.  
8 Baca is saying.

9 So I give you what Mr. Duran is saying  
10 just so that you understand the context. But you  
11 can't consider what Mr. Duran is saying for the  
12 truth of the matter. It's not relevant to your  
13 conversations.

14 All right. Ms. Armijo.

15 BY MS. ARMIJO:

16 Q. Mr. Duran, there is a mention there of  
17 J-Little, JR2. Who is that?

18 A. JR, Jerry Montoya.

19 Q. All right.

20 MS. ARMIJO: I'm going to move for the  
21 admission of Exhibit Number 304.

22 THE COURT: All right. The lawyers and  
23 the parties are staying ahead of me. So let's take  
24 a break and let me review 304.

25 MS. ARMIJO: And Your Honor, I believe

1 that was the one that was mentioned first thing this  
2 morning.

3 THE COURT: That's right. I've already  
4 ruled on 304. So Government's Exhibit 304 will be  
5 admitted into evidence.

6 (Government Exhibit 304 admitted.)

7 MS. ARMIJO: All right. Go ahead and  
8 start that one.

9 (Tape played.)

10 BY MS. ARMIJO:

11 Q. And who is Juan Baca?

12 A. Juan Baca?

13 Q. Yes.

14 A. The founder.

15 Q. And is that who he was referring to in the  
16 beginning there?

17 A. Yes, ma'am.

18 Q. Keep going.

19 (Tape played.)

20 Q. Okay. Now, it appears that Anthony Baca  
21 is talking about an incident, so I want to get some  
22 names out here. Who is Bear?

23 A. Oso. He's an SNM member.

24 Q. And are you familiar with Oso?

25 A. Yeah, a little bit.

1 Q. Okay. And what about "pistolas"? What  
2 does that mean?

3 A. Pistols.

4 Q. And can you tell what the beginning of  
5 this conversation -- what it is that he's starting  
6 to explain to you?

7 A. What he is?

8 Q. Yes.

9 A. He's a survival gang member.

10 Q. Okay. And what is this incident in  
11 reference -- he's talking about Bear, these --  
12 they're rattling the bars, and "Bear already said he  
13 was going to send you guys an issue." What is that  
14 in reference to?

15 A. An issue is a drug issue.

16 Q. Okay. Does it appear that there are some  
17 gang members that are upset and he's trying to calm  
18 them down?

19 A. Yes, ma'am.

20 Q. Okay. Keep going.

21 (Tape played.)

22 Q. Okay. Now, it appears that Anthony Baca  
23 indicates to Bear something. What is he telling  
24 Bear to not do?

25 A. To disregard giving the individuals any

1 kind of drugs.

2 Q. And he says something about respect?

3 A. Disrespect, not respect.

4 Q. Well, I guess my point is: Was it your  
5 sense that Mr. Baca was disrespected by these  
6 people?

7 A. Yeah, they were disrespecting by trying to  
8 rush these individuals into giving them drugs.

9 Q. All right. And so what is Anthony Baca  
10 telling you that he ordered Bear to do or not do?

11 A. To not give them nothing.

12 Q. All right.

13 (Tape played.)

14 Q. Okay. Now, is this a continuation of the  
15 same story?

16 A. Yes, ma'am.

17 Q. Okay. And can you tell what's going on,  
18 what he's explaining to you?

19 A. He's having altercations with these  
20 individuals that he refused to give drugs to.

21 Q. Okay. So I guess tensions are starting to  
22 run high here?

23 A. Yes, ma'am.

24 Q. Okay.

25 (Tape played.)

1 Q. Okay. Now, it appears that there was  
2 somebody taken to the hospital. What is that in  
3 reference to?

4 A. To an individual getting stabbed.

5 Q. Who was stabbed?

6 A. Rival gang members.

7 Q. Okay. So the rival gang member stabbed  
8 somebody?

9 A. Correct.

10 Q. And was the person that was stabbed -- who  
11 was he, in relationship to SNM?

12 A. He was an SNM Gang member.

13 MS. DUNCAN: Your Honor, I'm going to  
14 object on foundation for this witness.

15 THE COURT: Well, lay some foundation if  
16 you want to elicit this.

17 BY MS. ARMIJO:

18 Q. Who was it that was stabbed?

19 A. Jesse.

20 THE COURT: I think that's where you need  
21 foundation.

22 MS. ARMIJO: I'm sorry?

23 THE COURT: Does he even know and how does  
24 he know?

25



1 BY MS. ARMIJO:

2 Q. Do you know who was stabbed?

3 THE COURT: Well --

4 Q. I'll go back one step further. Was  
5 somebody stabbed?

6 A. Somebody was stabbed.

7 THE COURT: I think we need to know how he  
8 knows this information. He's giving us information.  
9 I think we need know how he knows it.

10 A. I think it's self-explanatory within the  
11 statement that he's making, that they use weapons,  
12 fierros.

13 MS. DUNCAN: Your Honor. I object.

14 THE COURT: Sustained. I'm not getting  
15 any help.

16 BY MS. ARMIJO:

17 Q. Did you -- in reference to this  
18 conversation, were you aware of this incident  
19 previous?

20 A. Yes, ma'am.

21 Q. You were?

22 A. Aware of it?

23 Q. Yes.

24 A. As far as what he's telling me.

25 Q. Okay. I know that we have a conversation

1 before you. Before this conversation that you had  
2 with Anthony Baca, were you aware of this incident  
3 that we're looking at and reading and listening to,  
4 were you aware of that previous to Anthony Baca  
5 telling you about in, it what we have before you?

6 A. This is the second or third time he's told  
7 me the story.

8 Q. I guess that's my point. Had he  
9 previously talked to you about this incident?

10 A. Yes, ma'am.

11 Q. When did he previously talk to you about  
12 this incident?

13 A. 2013, 2012.

14 Q. Okay. And did he personally tell you  
15 about this incident?

16 A. Yes, ma'am.

17 Q. In addition to personally being told about  
18 this, is it something that you learned through --  
19 and don't tell me what you learned -- but did you  
20 know about this from other sources?

21 A. This is part of who he is. This is what  
22 made him who he is.

23 MS. DUNCAN: Your Honor, I'm going to  
24 object as nonresponsive.

25 THE COURT: Overruled.

1 BY MS. ARMIJO:

2 Q. All right. Was this, in your eyes -- I'm  
3 just asking for your opinion -- was this incident  
4 that we're listening to and going to hear about an  
5 important incident in your eyes as far as Anthony  
6 Baca's role in the SNM?

7 MS. DUNCAN: Your Honor, I'm objecting to  
8 relevance. The witness' opinion of Anthony Baca is  
9 not relevant.

10 THE COURT: Well, he's listening to these  
11 conversations and talking to Mr. Baca, so I'll allow  
12 the question. Overruled.

13 A. This is where he earned his recognition.  
14 This is how people know Mr. Ray Baca.

15 BY MS. ARMIJO:

16 Q. Okay. And so I'm going to go back now.  
17 Since you know about this incident and you indicated  
18 it's, at least in your eyes, important to who he is  
19 in the SNM, and he told you about it, are you aware  
20 of who he is talking about here, when we're talking  
21 about -- because there is more to come -- about who  
22 was stabbed and whether or not that person that was  
23 stabbed was an SNM Gang member?

24 A. Yes, ma'am.

25 MS. DUNCAN: I'm still going to object on

1 hearsay grounds, Your Honor.

2 THE COURT: Overruled.

3 BY MS. ARMIJO:

4 Q. And who was the person that was stabbed?  
5 Was he an SNM Gang member?

6 A. Yes, ma'am.

7 Q. And what was the incident over?

8 MS. DUNCAN: Your Honor, can I have a  
9 continuing objection?

10 THE COURT: I think you're going to have  
11 to establish that he got this information from Mr.  
12 Baca on every one of these statements.

13 MS. ARMIJO: Okay. I will.

14 BY MS. ARMIJO:

15 Q. Did you find out from Mr. Baca on previous  
16 statements what this incident was about? And first,  
17 we're just talking about an SNM Gang member being  
18 stabbed.

19 A. Yes.

20 Q. Okay. And what was the stabbing over?

21 A. Altercation over drugs.

22 Q. Okay. And is it the same drugs that we  
23 heard about previously where Mr. Baca had told Oso  
24 not to provide drugs to rival gang members?

25 A. Aside from it being from drugs, it was

1 part of being disrespected.

2 Q. Okay. And what is the importance of being  
3 disrespected in the SNM?

4 A. Being disrespected is what people couldn't  
5 do.

6 Q. Okay. So I believe we last left off where  
7 Anthony Baca is saying, "I hollered at Robert. I  
8 told him" -- and who is Robert; do you know?

9 A. Robert Gallegos.

10 Q. And who is Robert Gallegos?

11 A. He's just an associate with the SNM.

12 Q. Okay. And it says there, "I'm going to go  
13 out there and kill this fucker ese."

14 Based on your previous conversations with  
15 Mr. Baca, are you aware of who -- this fucker ese he  
16 would be referring to?

17 A. Later on in this story is the person that  
18 he stabbed.

19 Q. Okay. And he's telling this to Robert,  
20 the SNM associate at this point? Is that what he's  
21 telling you?

22 A. Yes, ma'am.

23 Q. All right. Let's continue.

24 (Tape played.)

25 Q. Okay. Are you aware of where this

1 incident took place, based upon this call and your  
2 previous conversations with Mr. Baca?

3 A. Yes, ma'am.

4 Q. Where did this incident take place?

5 A. This incident took place at the Main  
6 facility in Santa Fe, New Mexico.

7 Q. And do you know -- and so the Main was  
8 closed approximately in '97, '98; is that correct?

9 A. About the end of '97.

10 Q. Okay. So this incident occurred before it  
11 closed?

12 A. Yes, ma'am.

13 Q. And the incident that he's referring to --  
14 do you know whether or not that person lived?

15 A. Yes, ma'am. That person did not live.

16 Q. And now where we started this last  
17 sequence, there is somebody asking Robert asking to  
18 assist; is that correct? Do you recall that?

19 A. Yes, ma'am.

20 Q. And did Anthony Baca want Robert to assist  
21 him?

22 A. He tried not to allow him to assist him,  
23 but he ended up assisting anyway.

24 MS. ARMIJO: Next we are going to go to  
25 Exhibit Number 388. Move for the admission of 388.

1 THE COURT: I had your next one down as  
2 391. I have a 390 and 391. So I haven't reviewed  
3 388. I didn't have that on the list. So if I'm  
4 going to need to review 388, we're going to need to  
5 take a break.

6 MS. DUNCAN: Your Honor, we don't have  
7 further objection as to 388.

8 THE COURT: All right. Then Government's  
9 Exhibit 388 will be admitted into evidence.

10 (Government Exhibit 388 admitted.)

11 MS. ARMIJO: And I believe the clip that  
12 we're going to play starts on Bates 6333.

13 MS. JACKS: And can we request a limiting  
14 instruction, please?

15 THE COURT: All right. These are all  
16 conversations that Mr. Duran had with Mr. Baca. So  
17 you can consider what Mr. Baca said in your  
18 deliberations to him, and not as to the other three  
19 defendants.

20 Ms. Armijo.

21 MS. ARMIJO: All right, go ahead and  
22 start.

23 (Tape played.)

24 BY MS. ARMIJO:

25 Q. Okay. In this conversation, does it

1 appear to be between Anthony Baca and you?

2 A. And myself, yes, ma'am.

3 Q. And there is a mention of a Julian. It  
4 says that Julian had to go. Who is Julian that  
5 you're talking about in this conversation?

6 A. Julian Romero. He was a high-ranking SNM  
7 member.

8 Q. Okay. And when he says that Julian had to  
9 go, what is that in reference to?

10 A. It's a reference to -- he has to leave the  
11 area where the SNM members are living.

12 Q. Okay.

13 (Tape played.)

14 Q. All right. Is this conversation in  
15 reference to Julian Romero, Anthony Baca saying to  
16 beat him up?

17 A. Yes. Yes, ma'am.

18 Q. All right. And there is reference to  
19 Styx. Who is Styx?

20 A. Styx is Gerald Archuleta. He also is a  
21 high-ranking SNM member within the organization.

22 Q. And did Gerald Archuleta and Julian  
23 Romero -- if you are aware, were there issues  
24 between the two of them?

25 A. There was issues between Gerald



1 Archuleta's wife and Julian Romero taking his wife  
2 while he was in prison, which is a rule that is  
3 forbidden within the organization.

4 Q. All right. And when he's referring to "He  
5 done fucked up," who was Anthony Baca referring to?

6 A. Julian Romero.

7 MS. ARMIJO: At this time we move for the  
8 admission of Exhibit Number 310.

9 MS. DUNCAN: Your Honor, this is another  
10 one that we do not have additional objection to.

11 THE COURT: All right. That's what my  
12 records indicate, as well. So Government's Exhibit  
13 310 will be admitted into evidence.

14 (Government Exhibit 310 admitted.)

15 MS. ARMIJO: And we will start --

16 MR. JACKS: Again, we would request a  
17 limiting instruction.

18 THE COURT: All right. We're continuing  
19 to just play tapes of Mr. Baca. So it's the same  
20 instruction. You can only consider it in relation  
21 to Mr. Baca, not the other three defendants.

22 MS. ARMIJO: And we're going to start on  
23 Bates 6055.

24 (Tape played.)  
25

1 BY MS. ARMIJO:

2 Q. Do you know who Plaz is within the SNM?

3 A. Yes, ma'am. Plaz is Jerry Montoya. He's  
4 one of the individuals that was involved in the  
5 Javier Molina murder.

6 Q. And you're referring to Javier here.  
7 Which Javier are you referring to?

8 A. It's Javier Molina, the one that got  
9 murdered.

10 Q. All right.  
11 (Tape played.)

12 Q. Who is Conejo?

13 A. Conejo was an SNM member.

14 Q. And the transcript says Conejo or Corejo?

15 A. It's Rabbit, Tommy Valdez.

16 Q. And when he says, "I'm going to push this  
17 shit," what were you and Anthony Baca talking about?

18 A. He's indicating that he's going to enforce  
19 the hit on Javier Molina.

20 MS. ARMIJO: Your Honor, at this time I  
21 move for the admission of 320.

22 THE COURT: And this is another one you  
23 didn't have a problem with, Ms. Duncan?

24 MS. DUNCAN: I have no further objections.

25 THE COURT: No further objections. All

1 right. So Government's Exhibit 320 will be admitted  
2 into evidence.

3 (Government Exhibit 320 admitted.)

4 MS. JACKS: And again, the limiting  
5 instruction, please.

6 THE COURT: All right. Again, these are  
7 just tapes of conversations with Mr. Baca, so they  
8 can only be used in your deliberation of the charges  
9 against Mr. Baca and not the other three defendants.

10 MS. ARMIJO: All right. Go ahead.

11 (Tape played.)

12 BY MS. ARMIJO:

13 Q. What is Anthony Baca talking about in this  
14 conversation?

15 A. Anthony Ray Baca is expressing to me his  
16 initiation through violence to become an SNM Gang  
17 member.

18 Q. Okay. Is that what he's referring to,  
19 beating somebody up with a pipe?

20 A. Yes, ma'am.

21 Q. And there is a line, "Nobody -- nobody  
22 could get in unless you put in jale, no?" What is  
23 "jale"?

24 A. It means work. But work is kill, assault,  
25 recognition.

1 Q. All right. And so is this in reference to  
2 Anthony Baca's initiation into SNM as you understood  
3 it?

4 A. Yes, ma'am.

5 MS. ARMIJO: Your Honor, at this time I  
6 move for the admission of Exhibit 390.

7 THE COURT: All right. Why don't y'all  
8 approach?

9 (The following proceedings were held at  
10 the bench.)

11 THE COURT: I think this one is all good.  
12 There's a couple of ways it comes in, even if it  
13 comes because of Mr. Baca making the statement. I  
14 think alternatively it's circumstantial evidence of  
15 Mr. Baca's state of mind in giving orders. We  
16 haven't been parsing these out. So if the other  
17 defendants want limiting instructions, they can have  
18 it.

19 As far as the middle of the page, it looks  
20 to me like these are about the admissions of the  
21 confidential informant. There are a couple of  
22 pages, but I'm comfortable that these are all good.

23 MS. DUNCAN: We've made our arguments to  
24 exclude these. I don't think I have anything else  
25 to add.

1 THE COURT: Let me go ahead, while you're  
2 up here, and give the one on 296 and 297. What I  
3 understand Mr. Baca to be objecting to are the  
4 statements on 627 and 628. But again, Baca made  
5 those statements, and I think they are relevant  
6 because they relate to Mr. Baca's plans to change  
7 the SNM through fear and violence, which shows the  
8 SNM structure, which is laying the groundwork here  
9 why it's relevant, which goes to whether SNM is an  
10 association-in-fact enterprise, and satisfies that.  
11 And so it shows that the SNM was planning  
12 racketeering activity, i.e., murders and threats.  
13 So it's his statements that are coming in, and I  
14 think they are relevant.

15 And then the next one is 308, 309. Again,  
16 these are all Mr. Baca's statements. They're all  
17 his complaints.

18 MS. DUNCAN: Your Honor, I only brought up  
19 this one.

20 THE COURT: Okay. Do you want to look at  
21 the --

22 MS. DUNCAN: Thank you, Your Honor. I'm  
23 still talking about 309 and 308.

24 THE COURT: Again, these are all Mr.  
25 Baca's statements. They're all about his complaints

1 about the SNM members, which I think those are  
2 relevant to show that SNM has some structural  
3 practices that goes to enterprise. So I think it's  
4 relevant evidence. I'm going to allow -- let in  
5 309.

6 So I guess these next three: 391, 207,  
7 and 309. I don't see any redactions that are needed  
8 on these next three.

9 MS. DUNCAN: We'll just incorporate all of  
10 our earlier objections, Your Honor.

11 MR. JEWKES: While we're here, Your Honor,  
12 we ask for a limiting instruction.

13 (The following proceedings were held in  
14 open court.)

15 THE COURT: All right. Government's  
16 Exhibit 390 will be admitted into evidence. Again,  
17 this is a tape recording of conversations with Mr.  
18 Baca, and you can only consider it in your  
19 deliberations of the charges against Mr. Baca and  
20 not for consideration of the charges against the  
21 other three gentlemen.

22 (Government Exhibit 390 admitted.)

23 MS. ARMIJO: Okay. If we could play a  
24 clip from 390.

25 (Tape played.)

1 BY MS. ARMIJO:

2 Q. Now, there is a mention of a Kreaper. Who  
3 is Kreaper again?

4 A. Kreaper is Jerry Armenta. He is also an  
5 individual that was involved in the Javier Molina  
6 murder.

7 Q. Okay. And what is this conversation over?

8 A. This conversation is over his testimony  
9 and him being a cooperative witness for the State at  
10 this time. And Anthony Ray Baca wanted to send a  
11 message to his mother to let him know, if he  
12 testifies, somebody in his family would be hurt.

13 Q. Okay.

14 (Tape played.)

15 Q. All right. That last statement, "Kreaper  
16 is fucking up. If you take the stand against this  
17 pedo, against anybody, we're coming for your ass."

18 Who was that statement meant to go to?

19 A. That statement was meant to go to anybody  
20 that was in Jerry Armenta's family. His mother  
21 specifically.

22 Q. Was Anthony Baca trying to prevent Jerry  
23 Armenta from testifying in the state case?

24 A. Yes, ma'am.

25 Q. And is this -- again, is this still -- all

1 these calls that we've been listening to this  
2 morning, is this still in the time period from  
3 mid-October or so, before December 3 of 2015?

4 A. Yes, ma'am.

5 MS. ARMIJO: All right. At this time I'd  
6 like to admit Exhibit 296.

7 THE COURT: Government's Exhibit 296 will  
8 be admitted in evidence.

9 (Government Exhibit 296 admitted.)

10 MS. JACKS: Again, we'd request a limiting  
11 instruction.

12 THE COURT: Again, this will be a tape of  
13 the conversation, and you'll see the transcript with  
14 Mr. Baca. You can only use this evidence in your  
15 deliberations against Mr. Baca, and not as to your  
16 deliberation as to the charges against the other  
17 three defendants.

18 BY MS. ARMIJO:

19 Q. Now, you indicated previously, when you  
20 testified yesterday, that you had a conversation  
21 with Anthony Baca in reference to wanting to have  
22 individuals hit within NMCD's administration;  
23 correct?

24 A. Yes, ma'am.

25 Q. And throughout the same time period, did



1 you have various conversations with him about that?

2 A. Yes, ma'am.

3 Q. Did the conversations include both you  
4 having a one-on-one conversation with him, as well  
5 as you calling individuals on his behalf in  
6 reference to that?

7 A. Yes, ma'am.

8 MS. ARMIJO: And let's go ahead and start,  
9 then, with 296, which is at Bates 6026.

10 (Tape played.)

11 Q. Okay. We have a name here, where Anthony  
12 Baca is saying, "Santistevan pulled me out over in  
13 Cruces one time." Who is Santistevan?

14 A. Dwayne Santistevan is director of STIU.

15 Q. Is that the same person you testified to  
16 yesterday as being one of the persons that Anthony  
17 Baca wanted hit?

18 A. Yes, ma'am.

19 Q. And in 2013?

20 A. Yes, ma'am.

21 Q. And when he says, "That fucker is  
22 paranoid," who is he referring to?

23 A. Dwayne Santistevan.

24 (Tape played.)

25 Q. Now, what is it that he's talking about

1 here? We heard something about "recruit." What is  
2 going on here?

3 A. He's just expressing that the Department  
4 of Corrections fears us recruiting.

5 Q. Recruiting who?

6 A. Recruiting individuals into the SNM  
7 organization.

8 Q. Okay. Continue.

9 (Tape played.)

10 Q. Now, in there, there is a mention of  
11 "they've been brainwashed." Who were you all  
12 talking about that's been brainwashed?

13 A. Rival gang members. The youngsters of the  
14 rival gang members have been brainwashed by the  
15 older generation into hatred towards the SNM.

16 And I'd like to also make a point of  
17 emphasis --

18 MS. DUNCAN: Your Honor, I object. There  
19 is no question pending.

20 Q. Is there something else in this call that  
21 is important?

22 A. The importance in this conversation is the  
23 word "fear." This is a motto, it's a philosophy  
24 that the SNM uses to get our way within the  
25 Department of Corrections. We like to embed fear

1 into people's hearts, including our rivals, to  
2 overcome and be superior over people.

3 Q. And is that what you and Anthony Baca were  
4 talking about?

5 A. Yes, ma'am.

6 MS. ARMIJO: At this time the United  
7 States would move for the admission of 308.

8 THE COURT: Government's Exhibit 308 will  
9 be admitted into evidence.

10 (Government Exhibit 308 admitted.)

11 MS. JACKS: Again, may we request a  
12 limiting instruction?

13 THE COURT: Again, this will be a  
14 conversation with Mr. Baca. You can only consider  
15 this evidence in your deliberations of the charges  
16 against Mr. Baca. You cannot consider it in  
17 consideration of the charges against the other three  
18 defendants.

19 MS. ARMIJO: All right.

20 (Tape played.)

21 BY MS. ARMIJO:

22 Q. "Chris got feria." Who is Chris that  
23 you're referring to?

24 A. Chris Garcia is an SNM Gang member.

25 Q. What is feria?

1 A. Money.

2 Q. And he mentions, "But with a little bit of  
3 finance behind it, it will get done, for sure."

4 What is it that you all are talking about  
5 here?

6 A. He's expressing with a little bit of  
7 finance, the hit will get done, for sure, in  
8 reference to Marcantel and Santistevan being hit by  
9 the SNM.

10 Q. All right. Go on.

11 (Tape played.)

12 Q. Now, what is he referring to there in that  
13 paragraph?

14 A. He's referring to working with rival gang  
15 members using soldiers from the SNM to put in work  
16 for rival gang members and get paid with it from  
17 drugs or money.

18 Q. All right. Continue.

19 (Tape played.)

20 Q. What is it they were referring to here?

21 A. He's referring to orders that he gave to  
22 SNM Gang members to hit any of our rival gang  
23 members no matter where we were, and we'd be  
24 rewarded for it.

25 Q. All right.

1 (Tape played.)

2 Q. What's a huila?

3 A. Huila is a letter.

4 Q. All right. And in this incident, Anthony  
5 Baca is talking about a specific incident. He says,  
6 "When I got into it, juras -- and the juras fucking  
7 bum-rushed my cot." Do you know what incident he's  
8 referring to?

9 A. He got into an incident because he was  
10 high and the COs noticed it.

11 Q. And is this the incident that he's  
12 referring to here?

13 A. Yes, ma'am.

14 MS. DUNCAN: Your Honor, before we  
15 continue, can we get a limiting statement about  
16 Mr. Duran's statements?

17 THE COURT: Yeah. Mr. Duran's statements  
18 are out-of-court statements and they're not relevant  
19 here other than to give you context. So you can't  
20 consider them for the truth of the matter; just for  
21 the purpose of giving you context as to what Mr.  
22 Baca is talking about.

23 All right. Ms. Armijo.

24 (Tape played.)

25

1 BY MS. ARMIJO:

2 Q. And is that more in reference to that  
3 incident?

4 A. An important factor of this statement is  
5 that he told Baby G to carry out a hit on Petey,  
6 which is an individual that is a rival gang member  
7 that was being housed with us. And Anthony Baca  
8 wanted him hit because he was taking up a cell.  
9 Instead of having an SNM Gang member living with us,  
10 we had a rival gang member, and he wanted to get rid  
11 of him.

12 Q. And was that information in the huila?

13 A. That information is in the statement.

14 Q. Well, it's in the statement, but he also  
15 refers to --

16 A. He's just expressing it as it happened  
17 while he was getting hemmed up by the correctional  
18 officers.

19 MS. ARMIJO: And at this time we move for  
20 the admission of 384.

21 THE COURT: Why don't y'all approach? And  
22 Ms. Armijo, if you'll bring with you the pages that  
23 you're going to introduce so I can be specific here.

24 (The following proceedings were held at  
25 the bench.)

1 MR. MAYNARD: Judge, we have a client that  
2 needs a bathroom break.

3 THE COURT: All right. Let me go ahead  
4 and rule here.

5 MR. MAYNARD: Yes.

6 THE COURT: Let's go ahead and rule, and  
7 then we'll take a break.

8 As far as 6311 through 13, I think they're  
9 relevant and I think they're admissible because Mr.  
10 Baca is arranging for Mario Montoya to get the gun  
11 to use on Marcantel. So I'll overrule any objection  
12 on that.

13 Now, 6313 to 24, I'm having a hard time  
14 seeing how these pages are relevant, but I also  
15 don't see how they're objectionable. And they do  
16 provide some context to other exchanges. Do you  
17 intend to get all those?

18 MS. ARMIJO: What I was going to play,  
19 Your Honor, was beginning on 6311 and to through  
20 6312. I was not counting on playing the other.

21 THE COURT: So 6313 to 24, you were not  
22 playing?

23 MS. ARMIJO: No.

24 THE COURT: We'll exclude those.

25 MS. ARMIJO: So we should exclude those

1 too.

2 THE COURT: I didn't see how they were  
3 relevant, other than relevancy grounds. They  
4 provide no context. But if you don't need them,  
5 then we won't worry about them.

6 6324 to 25, here's where it gets a little  
7 trickier. Are you going to use any of those pages?

8 MS. ARMIJO: No.

9 THE COURT: Because there are some hearsay  
10 statements about --

11 MS. ARMIJO: No, Your Honor.

12 THE COURT: -- someone named Becky and  
13 Suboxone.

14 MS. ARMIJO: No.

15 THE COURT: So I'm skipping down to 628 to  
16 29, and Baca is discussing sources of drugs, which I  
17 think is relevant because the drug trafficking is a  
18 racketeering activity. So if you're planning to  
19 play those, I think those are okay, and I'll  
20 overrule the objection to those.

21 MS. ARMIJO: Okay.

22 THE COURT: Do you need other rulings on  
23 that?

24 MS. DUNCAN: And on 6328, where I'm  
25 guessing --



1 THE COURT: Those are Baca's statements  
2 there. So he's discussing sources of drugs, which I  
3 think is relevant to the drug trafficking, is a  
4 racketeering activity.

5 MS. DUNCAN: Okay. Thank you, Your Honor.

6 MR. JEWKES: Your Honor, I would like a  
7 limiting instruction.

8 THE COURT: Do you want it before or after  
9 the break?

10 MR. JEWKES: After the break, please.

11 (The following proceedings were held in  
12 open court.)

13 THE COURT: All right. I'm going to  
14 admit -- Government's Exhibit 384 will be admitted  
15 into evidence.

16 (Government Exhibit 384 admitted.)

17 THE COURT: So let's go ahead and take our  
18 morning break, and then we'll come back in and play  
19 this tape. And before it's made, I'll give you the  
20 same limiting instruction I've been giving as to the  
21 other tapes. But I'll hold off on doing that until  
22 we come back and refresh your memory about what  
23 we're doing.

24 All right. We'll be in recess for about  
25 15 minutes.

1 (The jury left the courtroom.)

2 THE COURT: All right. Anything we need  
3 to discuss? All right. We'll be in recess about 15  
4 minutes.

5 (The Court stood in recess.)

6 THE COURT: All right. We'll go on the  
7 record.

8 Ms. Duncan, you had something you wanted  
9 to raise?

10 MS. DUNCAN: Yes, Your Honor. Your Honor,  
11 we missed one exhibit. It's Exhibit 344. There is  
12 a brief portion over two pages that we would object  
13 to. And I just gave it to Ms. Armijo.

14 THE COURT: All right. Well, give it to  
15 me, then.

16 MS. DUNCAN: So Your Honor, it's Bates No.  
17 6151. It starts with Mr. Duran saying, "Oh, oh, is  
18 that what he was telling you, the red mummy?" And  
19 then all the way to 6152. It's a little bit past  
20 half the page. Mr. Baca says, "And that's serious  
21 as fuck."

22 And so we would ask the Court to redact to  
23 that point.

24 And then it's not redaction, but we just  
25 had a general objection to Exhibit 330, which is a

1 discussion of who lives on Corrections grounds, and  
2 it's Mr. Duran who raises the name of Mr. Marcantel.  
3 And as the Court's aware, it's our position that  
4 Mr. Duran is the mastermind of the Marcantel plot,  
5 not Mr. Baca. And so we'd ask the Court to exclude  
6 it as misleading.

7 THE COURT: All right. I'm having trouble  
8 taking down all your objections. You're throwing a  
9 lot at me. Why don't you just wait and not start  
10 your second one until I get this one that you  
11 missed?

12 Ms. Duncan, you're objecting to Exhibit  
13 33?

14 MS. DUNCAN: 330, Your Honor.

15 THE COURT: Okay. All rise.

16 (The jury entered the courtroom.)

17 THE COURT: All right, Mr. Duran, I'll  
18 remind you that you're still under oath.

19 THE WITNESS: Yes, sir.

20 THE COURT: The Government is going to  
21 play 384, which I've admitted into evidence. This  
22 is a conversation with Mr. Baca. You can only  
23 consider it in the deliberations of charges against  
24 Mr. Baca and not as to the charges against the other  
25 three defendants.

1 All right. Ms. Armijo.

2 BY MS. ARMIJO:

3 Q. We're beginning at Bates 6311. Let's  
4 stop. I'm sorry.

5 If you can look on the screen and see, who  
6 is this conversation between?

7 A. Myself and Pup, or Anthony Ray Baca, and  
8 Michael.

9 Q. And who is Michael?

10 A. Mario Montoya.

11 Q. Michael is Mario Montoya? Or is there  
12 another individual named --

13 A. Oh. Michael Snow. Sorry. Which is  
14 Anthony Ray Baca's cousin.

15 Q. Okay. And is this one of the recordings  
16 where he's being recorded on your telephone that you  
17 were provided with, and then you're talking to  
18 Michael Snow, and Anthony Baca is next door. Does  
19 that make sense?

20 A. Yes, ma'am.

21 Q. Is that the scenario that we're looking  
22 at?

23 A. Yes, ma'am. My cellphone, and I'm also  
24 recording on the recording device.

25 Q. So if we could play it now.

1 (Tape played.)

2 Q. What is a cuete?

3 A. A gun.

4 Q. Okay. And when you say he wants to know  
5 if you can get him a cuete, who is the "he" you're  
6 referring to?

7 A. Anthony Ray Baca.

8 Q. And do you know, based on this  
9 conversation, what the firearm is for?

10 A. The firearm is going to be used in the  
11 assassination of Mr. Marcantel or Santistevan.

12 Q. All right.

13 (Tape played.)

14 Q. And then it indicates that Anthony Baca  
15 said, "I don't know about my ruca. Ask him." And  
16 there is something, "if he remembers Mario Poo Poo."  
17 What does ruca mean?

18 A. Girlfriend.

19 Q. And so -- and Mario Poo Poo -- who is that  
20 in reference to?

21 A. Mario Montoya.

22 Q. His nickname being Poo Poo?

23 A. Yes.

24 Q. All right.

25 (Tape played.)

1 Q. Now, is this Anthony Baca asking for Mario  
2 Montoya to pick up a gun from Michael Snow?

3 A. Yes, ma'am.

4 MS. ARMIJO: All right. Now I'm going to  
5 move for the admission of 422.

6 THE COURT: All right. Well, I'm going to  
7 have to take a break and review these transcripts.  
8 So we'll be in recess for about 15 minutes, or as  
9 long as it's going to take for me to review them.

10 All rise.

11 (The jury left the courtroom.)

12 THE COURT: All right. Let's be seated.  
13 If the Government is only going to play like a  
14 couple of lines out of all these transcripts, it's  
15 killing me to review pages and pages that you're not  
16 introducing. So can you tell me on 422 what you're  
17 going to play?

18 MS. ARMIJO: Yes, Your Honor, but I think  
19 our position has been that we still want the whole  
20 transcript to go in. We're only highlighting  
21 certain portions.

22 THE COURT: We'll be in recess, then.

23 MS. ARMIJO: But I can --

24 THE COURT: We'll be in recess.

25 (The Court stood in recess.)

1 THE COURT: Let me go ahead and make my  
2 record, then, as to the transcripts that are not  
3 being read. 6324 to 25 on Exhibit 384, I guess,  
4 which is the tape playing, there are some hearsay  
5 statements about whether someone named Becky can get  
6 Suboxone. But those statements are relevant not for  
7 their truth, but to show Mr. Baca's state of mind  
8 when asking Michael to get Suboxone from Becky for  
9 him.

10 So I don't know what you want to do. I  
11 mean, the tape is coming in, but they're not playing  
12 it in front of the jury, so I don't know how you  
13 give a limiting instruction to something that's not  
14 being played in the courtroom. But it may just not  
15 be a big factor if they're not highlighting it and  
16 putting it into evidence.

17 MS. DUNCAN: Your Honor, our position  
18 would be maybe if it's not played in the courtroom,  
19 it shouldn't go back to the jury; that we should be  
20 limited to what is being played with these  
21 witnesses, so the jury is not left -- it's just --

22 THE COURT: Well, they get to introduce  
23 what they want, and you get to object to what you  
24 want. So that's your position, but it's not going  
25 to carry the day. So I'm ruling on your objections,

1 and I guess I'll have to go through, even though  
2 it's not being played in the courtroom. What do you  
3 want to do on this one?

4 MS. DUNCAN: For 422 we'd ask you to  
5 redact the portions that we noted.

6 THE COURT: Well, 6324 to 25. I guess  
7 what I need to do on these is: If the Government is  
8 introducing all these tapes, I need to give a  
9 limiting instruction to the jury to those pages when  
10 they go back and consider them. Anybody see any  
11 better way of doing it?

12 MS. JACKS: Your Honor, if I may, these  
13 tapes are not admissible against Mr. Sanchez. But  
14 it's my understanding of the rules of evidence that  
15 in order for the jury to properly consider it, it  
16 has to be presented in open court.

17 THE COURT: They're being presented, but  
18 they're highlighting certain portions of it. If you  
19 want to give me some case law that they have to play  
20 the entire tape, you can. But I'm not aware of it.

21 MR. JACKS: And at this point, Mr. Sanchez  
22 would object to the jury considering any evidence  
23 that isn't presented on the record in open court in  
24 front of the defendants.

25 THE COURT: So you want more played?



1 MR. JACKS: I don't want any of it played.  
2 But that's why we asked for a separate jury and a  
3 severance.

4 THE COURT: Well, but now you're asking  
5 for more to be played.

6 MR. JACKS: What I'm asking is that the  
7 jury not be considering evidence that's not  
8 presented in open court. I think that's what the  
9 Constitution requires.

10 THE COURT: All right. Well, here's what  
11 I'm going to do: When we bring the jury back in,  
12 I'll give a limiting instruction, tell them on  
13 certain pages of the tape that they're not to  
14 consider it. So I'll give them a limiting  
15 instruction on that.

16 Let me start to try to deal with this  
17 Exhibit 422. What I understand is -- let me give  
18 you a range of pages here. Mr. Baca is objecting to  
19 19944 through 46. 19955-54. 19- -- is that 54  
20 or -- no, it's 59. 19960-62. 19968. 19972-73.

21 I'll go through these one at a time, but I  
22 guess my short conclusion as to these pages is that  
23 they all involve Baca bad acts that don't appear to  
24 be SNM-related. So those acts are both irrelevant  
25 and prejudicial, and need to be redacted.

1 Taking that first group specifically,  
2 19944 to 46, a portion of this talks about using  
3 drugs with a David -- is that Casias? -- who he met  
4 in prison in 1983 to '84. He's buying but not using  
5 drugs. I think buying drugs is the racketeering  
6 activity, not the using drugs. And I don't see  
7 anything linking this incident to the SNM.

8 The exchange regarding whether Baca  
9 fathered CS's son is irrelevant.

10 And going to that next batch of material,  
11 19955-59, Mr. Baca describes a murder he committed  
12 in 1981, where he killed a guy hitting on his  
13 friend's girlfriend, and subsequently tried to  
14 intimidate witnesses. There is no evidence that the  
15 murder, which took place outside of prison, was  
16 SNM-related. Mr. Baca first went to Santa Fe for  
17 this murder, so he might not have been an SNM member  
18 yet.

19 The third group of pages here, Mr. Baca is  
20 describing in rather cursory terms here several  
21 out-of-prison murders. The only link to SNM is that  
22 Mr. Baca refers to one of the killers as the carnal.  
23 Is that Brian? What's he saying there? And then  
24 on -- so the same problems with those.

25 19968, Mr. Baca states that someone used

1 to visit him when he was going to trial for a murder  
2 he picked up at the Main prison. I guess that  
3 murder might be relevant to the enterprise. But  
4 this statement is not. I don't see how a visit is  
5 going to get him.

6 All right. So with that, I think the rest  
7 of 422 can come in. So you've got those.

8 MS. ARMIJO: Your Honor, we won't play  
9 those. But for the redaction for Court purposes --  
10 and I don't know, because I wasn't getting emails  
11 from Ms. Duncan; I see that she sent me several.  
12 But if we can either have that written down so we  
13 can make sure that we get the right corrections, or  
14 if Ms. Duncan gave me something, if we could have a  
15 copy of that, just because I want to make sure that  
16 we get it correct as to what goes back before the  
17 jury.

18 THE COURT: So it's 19944 through 46;  
19 19955 through 59; 19960 through 62; 19968; 19972  
20 through 73.

21 MS. ARMIJO: Thank you.

22 THE COURT: All right. Did you have  
23 anything else on that, Ms. Duncan? I'll bring the  
24 jury in and see if we can get this tape done.

25 MS. DUNCAN: No, Your Honor, those are the

1 objections that we have.

2 THE COURT: Ms. Standridge, do you want to  
3 get the jury in?

4 Ms. Standridge handed something up here,  
5 transcripts. Are they from you, Ms. Armijo?

6 MS. ARMIJO: Your Honor, those are  
7 transcripts that were ordered redacted by the Court  
8 that are different from the copies that you have in  
9 your notebook. They're based on the Court's  
10 previous rulings on redactions.

11 THE COURT: Okay.

12 (The jury entered the courtroom.)

13 THE COURT: All right. Mr. Duran, I'll  
14 remind you that you're still under oath. And  
15 Government's Exhibit 422 is admitted into evidence.

16 (Government Exhibit 422 admitted.)

17 BY MS. ARMIJO:

18 Q. Mr. Duran, I believe previously we heard  
19 Anthony Baca talking to Michael Snow about possibly  
20 getting a firearm. Did that ever materialize, that  
21 you're aware of?

22 A. No, ma'am.

23 Q. Was there a second person that was then  
24 asked for a firearm?

25 A. Yes, ma'am.

1 Q. And who would that be?

2 A. Chris Garcia.

3 Q. All right. At this time we'd like to play  
4 the first clip from Exhibit 422, which begins on  
5 Bates 19939.

6 MR. JACKS: Your Honor, I'm sorry, but in  
7 the confusion I don't know if the Court's given a  
8 limiting instruction on this particular item.

9 THE COURT: All right. On this tape,  
10 which is a conversation with Mr. Baca, you can only  
11 use this conversation in your deliberations of the  
12 charges, about the charges against Mr. Baca and not  
13 as to the other three defendants.

14 MS. ARMIJO: All right. Could we play the  
15 first clip?

16 (Tape played.)

17 BY MS. ARMIJO:

18 Q. All right. And how many firearms is  
19 Anthony Baca asking for in this part of the  
20 conversation?

21 A. He's requesting that Chris Garcia get him  
22 two firearms.

23 Q. And if we could go to the second clip,  
24 which begins on Bates 19941.

25 (Tape played.)

1 Q. There is a lot of conversation about  
2 hiding something. What is this conversation about?

3 A. He's --

4 Q. Who is "he"?

5 A. Anthony Ray Baca is directing Chris Garcia  
6 to hide the weapons that he's going to get in a  
7 certain particular place that only that person would  
8 know that's picking them up.

9 Q. Is that what they're trying to do, leave a  
10 note or something so a person would know to pick it  
11 up?

12 A. So they would know it's confirmation,  
13 basically.

14 Q. All right. Continue.

15 (Tape played.)

16 Q. Now, who is Holly Holm, if you know?

17 A. Holly Holm is a world-famous UFC fighter  
18 from New Mexico.

19 Q. And is there a reference to celebrating a  
20 win of hers?

21 A. When she beat Ronda Rousey in the UFC  
22 match.

23 Q. Now, after that conversation, were there  
24 continued to be other conversations with Chris  
25 Garcia about a firearm?

1 A. Yes, ma'am.

2 MS. ARMIJO: All right. And at this time  
3 I'd move for the admission of 420.

4 THE COURT: All right. Well, I'm trying  
5 to stay ahead, but I'm not quite able to do it. So  
6 we'll be in recess for a few minutes. All rise.

7 (The jury left the courtroom.)

8 THE COURT: All right. We'll be in recess  
9 for a few minutes.

10 (The Court stood in recess.)

11 THE COURT: All right. Let's go back on  
12 the record. I'm looking at the typed sheet that Ms.  
13 Duncan gave me this morning, and it's an email, I  
14 guess, from Mr. Lowry to Ms. Duncan and to Ms.  
15 Armijo. So I'm looking at those. This would be  
16 transcript 419. So the audio of 420.

17 So on page 19906 there is a statement by  
18 Baca that says, "Nah, Weasel -- Gay Weasel is kind  
19 of healthy but he was living with others." That  
20 whole statement is I think irrelevant. It refers to  
21 people who have drugs but do not appear to be SNM.  
22 So let's redact that.

23 The next page, down at the bottom, it's --  
24 Baca says, "And here in the '70s, he used to sell  
25 chiva right there in your neighborhood. Garcia:

1 Yeah."

2 I'd redact that as irrelevant. It again  
3 refers to people who have drugs, but do not appear  
4 to be SNM, so it's irrelevant.

5 Then 19910, oh, about two-thirds of the  
6 way down it says, "Garcia: Yeah. Okay. Okay.  
7 Yeah. Baca: He has -- he has" -- those two lines,  
8 redact those as irrelevant. Again, it's referring  
9 to people who seem to have drugs, but don't appear  
10 to be SNM.

11 So I'll grant those redactions and let's  
12 go to 19911 starting in the middle of the page, it  
13 goes, "Baca: Intelligible." Then it starts,  
14 "Garcia: She gets a little baseball team. No."  
15 And then Baca down to where it says, "Baca: I was  
16 UI caught up that night."

17 I think that's relevant if Baca was  
18 selling drugs for SNM when this occurred. But is  
19 there any evidence that that was occurring? I guess  
20 it's more of a relevance issue for me, and I just  
21 don't know if I have enough information to determine  
22 that. If y'all want to try to convince me that he  
23 was selling drugs at the time, there is some  
24 evidence in the record that does it, then we can  
25 leave it in. But I think it's only relevant if he



1 was selling drugs for SNM at the time, and I'm not  
2 sure that this is clear enough to internally make  
3 that clear.

4 All right. Then 19918, under that  
5 statement -- well, I'll start with Garcia. "Garcia:  
6 Yeah, and then when she got Chacon," all the way  
7 down to again Garcia's statement, "Go rob somebody,  
8 armed robbery, whatever, and get the money," again,  
9 I think all that's inadmissible hearsay as well. So  
10 that needs to be redacted.

11 19923, pretty much this page, but let me  
12 be a little bit more precise. The confidential  
13 human source, "The first one time" down to the rest  
14 of the page. So where it says, "That -- does that  
15 chick do drugs," from there on down, I think the  
16 rest of that is inadmissible hearsay.

17 And that's the problem with 1924, the  
18 entire page there.

19 Then on 1925, the redactions continue down  
20 to the middle of page where it says "Baca" and "UI,  
21 voices overlap."

22 So redact the top of the page and then the  
23 rest starting with "Baca and UI voices overlap,"  
24 that can remain in. So "Garcia: Yep" is the last  
25 redaction on that page.

1           So I'm granting the redactions except  
2 19911, which is admissible only if the Government  
3 links it to SNM some way, some way that Mr. Baca is  
4 selling drugs.

5           All right. Are we ready to go with 420?  
6 Otherwise I'll admit 420.

7           (Government Exhibit 420 admitted.)

8           THE COURT: Anything else on that, Ms.  
9 Duncan? That clear is enough?

10          MS. DUNCAN: Your Honor, thank you.

11          THE COURT: So Exhibit 420 will be  
12 admitted.

13          Take out that redaction as to Mr. Baca  
14 selling drugs, that portion on 9, unless you want to  
15 come back and argue that you've got evidence  
16 somewhere.

17          19911, that one needs to come out unless  
18 the Government wants to make a further record on  
19 that.

20          All right. Ms. Standridge, do you want  
21 bring in the jury?

22          MR. JACKS: And Your Honor, would the  
23 Court provide a limiting instruction?

24          THE COURT: I will.

25          MS. DUNCAN: Your Honor, before the jury

1 comes in, I just noticed Mr. Cordova's lawyer came  
2 into the courtroom, so I was hoping that the Court  
3 could talk to him.

4 THE COURT: And who is Mr. Cordova's  
5 lawyer? I can't see back there. Oh, Mr. Samore.

6 MR. SAMORE: Judge.

7 THE COURT: All right. Mr. Samore, I  
8 haven't been excluding all the attorneys that are a  
9 little bit ahead of the anticipated testimony of  
10 their clients. But will you just give me your  
11 assurance that you will not be a conduit for what's  
12 going on in this court? The Rule has been invoked.  
13 So you're welcome to stay as long as you give me  
14 your word you won't be a conduit to Mr. Cordova.

15 MR. SAMORE: You have my word.

16 THE COURT: So don't tell him what's going  
17 on in here since we've invoked the rule.

18 MR. SAMORE: I really don't know what's  
19 going on.

20 THE COURT: I'm redacting transcripts,  
21 ruling on objections to transcripts. That's what  
22 I'm doing. And I'm not staying ahead of everyone.

23 All rise.

24 (The jury entered the courtroom.)

25 THE COURT: All right, Mr. Duran, I'll

1 remind you that you're still under oath.

2 MR. DURAN: Yes, Your Honor.

3 THE COURT: And I'm going to admit  
4 Government's Exhibit 420 into evidence and it's  
5 going to be a conversation with Mr. Baca. So,  
6 again, you can consider this as evidence only in  
7 your connection with your deliberations as to the  
8 charges against Mr. Baca, and you may not consider  
9 it in your deliberations in any way as to the other  
10 three defendants.

11 Ms. Armijo.

12 MS. ARMIJO: All right. Thank you. And  
13 with that we will play the clip.

14 BY MS. ARMIJO:

15 Q. And I guess before we start it, Mr. Duran,  
16 can you look and see if this is another conversation  
17 that involves Anthony Baca and Chris Garcia?

18 A. Yes, ma'am.

19 Q. All right. Let's go ahead.

20 (Tape played.)

21 Q. And there, there is, "Give him one. Don't  
22 give him two." What is it that we're talking about?

23 A. Anthony Ray Baca is directing Chris Garcia  
24 to give Mario Montoya just one gun instead of two.

25 Q. All right. Continue.

1 (Tape played.)

2 Q. Now, there is mention there of tripping on  
3 something and glass. What are you referring to?

4 A. He's referring to methamphetamines.

5 Q. All right.

6 (Tape played.)

7 Q. And the one that's being referred to --  
8 what is the one going to be used for?

9 A. The one is going to be used to commit the  
10 assassination against the Secretary of Corrections,  
11 Gregg Marcantel, or the director of STIU, Dwayne  
12 Santistevan.

13 Q. And there is mention here of, "He can try  
14 to erase any numbers on that." Do you know what  
15 that is in reference to?

16 A. So he's giving him a directive to erase  
17 the serial numbers off the weapon so it can't be  
18 traced back to the original owner.

19 Q. Okay. And I believe there was also talk  
20 about, you know, "If he messes up, that's it for  
21 him." What is that in reference to? Or "cut him  
22 off," something to that effect?

23 A. It's just making an expression that if  
24 Mario messes up this hit or his obligation to do  
25 what he needs to do, just to cut him off of

1 activities, get rid of him.

2 MS. ARMIJO: Now, the next item we have is  
3 Exhibit 416. And I don't know if there are any  
4 objections to 416.

5 THE COURT: Yeah, there are. Why don't we  
6 go ahead and take our lunch break, and maybe I can  
7 get caught up on the lunch break on ruling on these.

8 All right. We'll be in recess for about  
9 an hour.

10 (The jury left the courtroom.)

11 THE COURT: All right. We'll be in recess  
12 for about an hour.

13 (The Court stood in recess.)

14 THE COURT: All right. Let's go on the  
15 record and let me make some rulings for you on three  
16 transcripts, and then I think I'll owe you two more,  
17 but they're the last two.

18 As to 416, which is transcript 417, if you  
19 look at 19795 to 19799, which goes down to the -- I  
20 think it's the sixth "Pup" entry, so I think that's  
21 irrelevant, so it goes down to the "Pup: Yay." So  
22 all of 19795 to 99 is irrelevant unless the criminal  
23 activity described is tied to the SNM. It  
24 internally doesn't do it. So if the Government  
25 wants to make another run at trying to get this in,

1 you'll need to tie it to SNM activities, but  
2 internally I can't make it that it is.

3 Then after that where Pup says, "Yay,"  
4 after that on 799 to 19800 -- so 19799 after the  
5 sixth Pup entry to 19800, it looks relevant because  
6 it refers to an SNM hit. So I'm overruling the  
7 objection to it.

8 Then 19802 to 803 is irrelevant. I don't  
9 see the relevancy of it.

10 19804 to 19806 I do think is relevant  
11 because these incidents appear -- or a reasonable  
12 jury I think could conclude that these statements  
13 describe an SNM activity. So I'm going to leave  
14 those in.

15 And then 19809 to 19812, these statements  
16 describe SNM activity, so they are relevant.

17 So those are my rulings as to 416. And  
18 otherwise, it can be admitted.

19 Then Ms. Duncan made objections to 330,  
20 which is transcript 331, and I think Mr. Baca is  
21 objecting to this transcript as misleading.

22 Mr. Baca's statements are admissible as a  
23 statement by a party opponent. The CHS's statements  
24 can come in because they have no truth value. If  
25 you want a limiting instruction on the CHS's

1 statements, you can have it. But they have no truth  
2 value, but they have value putting things in  
3 context.

4 The statements have probative value as to  
5 the Marcantel conspiracy, so I do think that they  
6 are relevant. If they are misleading -- and I don't  
7 think they are -- I think that can be cleared up on  
8 cross-examination rather than excluding the  
9 testimony. So I'll overrule Mr. Baca's objection to  
10 330 and transcript 331.

11 And then Ms. Duncan raised this morning  
12 more objections, two more objections, to 344, pages  
13 61 to 51 and 61 to 52. And it starts with Mr. Duran  
14 saying, "Oh, oh, is that what he was telling you,  
15 the red mummy?" And all the way down to 6152, the  
16 little bit past the page, past half the page, and  
17 Mr. Baca says, "And that's serious as fuck." And  
18 Mr. Baca asked the Court to redact to that point.

19 But the portions that Mr. Baca asked to be  
20 redacted I think are relevant. They cover a crime  
21 that an SNM member committed in front of Mr. Baca's  
22 family. The relevant statements come from Mr. Baca.  
23 So it will become the hearsay rule, and then  
24 Mr. Duran's statements come in; they have no truth  
25 value. So again, if a limiting instruction is



1 desired on that -- but I do think that they come in,  
2 because while they don't have any truth value, they  
3 do provide the context for Mr. Baca's statements,  
4 which I think are relevant.

5 So with those rulings, I'll admit 416, 330  
6 and 344.

7 (Government Exhibits 330, 344, and 416  
8 admitted.)

9 THE COURT: And then I'm still working on  
10 418 and 348.

11 I think that's it. If somebody else has  
12 got something else to rule on, I think that will  
13 cover it once I give you 418 and 348. Is that  
14 right, Ms. Duncan?

15 MS. DUNCAN: That's correct, Your Honor,  
16 and I think the Government is also planning to play  
17 Exhibit 328, and we do not have any objections to  
18 that.

19 THE COURT: That's what my notes reflect,  
20 too. So I owe you two more.

21 All right. Anything else to discuss  
22 before we bring in Mr. Duran and the jury? Anything  
23 else from the Government, Ms. Armijo?

24 MS. ARMIJO: No, Your Honor.

25 THE COURT: How about any of the

1 defendants? Do they have anything to discuss?

2 Mr. Del Valle, if this afternoon in  
3 cross-examination you want to be closer to  
4 Mr. Duran, we had a chair up here yesterday for Mr.  
5 Candelaria, so feel free to come up and take that  
6 place, if you want it.

7 MR. DEL VALLE: Thank you, Your Honor. I  
8 intended on doing so.

9 THE COURT: Okay. All rise.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Please be seated.

12 All right. Mr. Duran, I'll remind you  
13 that you're still under oath.

14 The Court will admit Government's Exhibit  
15 420.

16 (Government Exhibit 420 admitted.)

17 THE COURT: Ms. Armijo, if you wish to  
18 continue your direct examination of Mr. Duran, you  
19 may do so at this time.

20 MR. JACKS: Your Honor, may we request a  
21 limiting instruction, please?

22 THE COURT: The tape that's going to be  
23 played again is a conversation with Mr. Baca so you  
24 can only use this tape in your deliberations as to  
25 the charges against Mr. Baca and not as to the other

1 three gentlemen.

2 All right, Ms. Armijo.

3 MS. ARMIJO: Your Honor, I believe that we  
4 were done with 420. We're now on 416.

5 THE COURT: Did I say 420? All right. So  
6 Government's Exhibit 416 will be admitted. All  
7 right.

8 (Government Exhibit 416 admitted.)

9 BY MS. ARMIJO:

10 Q. Before we play that, Mr. Duran, are you  
11 aware of -- the calls that we're listening to now  
12 are with reference to Anthony Baca and Chris Garcia.  
13 Did you also have calls with Anthony Baca and Mario  
14 Montoya?

15 A. Yes, ma'am.

16 Q. And so are you aware of whether or not at  
17 some point -- was Chris Garcia at some point made  
18 aware of what the firearms were going to be used  
19 for?

20 A. Yes, ma'am.

21 Q. And was he?

22 A. He was aware of that, ma'am.

23 Q. All right. Do you know if initially he  
24 was, or was he made aware of that later?

25 A. Not initially. It was supposed to be a

1 secret kept from him.

2 Q. And then at some point he's made aware of  
3 it?

4 A. At some point he's made aware of it, yes.

5 Q. Now, going to 416, if we could play the  
6 first clip, this is Bates 19762.

7 MS. JACKS: Your Honor, I'm not sure we  
8 have the limiting instruction with regard to this  
9 one yet.

10 THE COURT: I thought I gave it. This  
11 conversation relates only to a conversation with Mr.  
12 Baca and you can only consider it for purposes of  
13 your deliberations of charges against Mr. Baca and  
14 not as to the other three gentlemen.

15 (Tape played.)

16 BY MS. ARMIJO:

17 Q. Does this appear to be more conversation  
18 about putting the firearm someplace safe?

19 A. Yes, ma'am. It's just going back to  
20 putting it in a secret location, details that they  
21 had got into in previous conversations. Now he has  
22 the weapons and he's going to do it.

23 Q. Okay. And going to the second clip, which  
24 is 19763.

25 (Tape played.)

1 Q. Now, there is mention again to the juras  
2 in this. What are the juras?

3 A. The juras are the cops.

4 Q. And you indicated that this is now a time  
5 when it was your understanding that Chris Garcia had  
6 actually obtained a firearm?

7 A. Yes, ma'am.

8 Q. As opposed to before, just talking about  
9 if he got a firearm?

10 A. Yeah, opposed to if he got a firearm, what  
11 would he do with it. Now that he has it, he got  
12 direction from Anthony Ray Baca to put it in a  
13 secret location to be picked up by the assailant,  
14 which would have been Mario Montoya.

15 MS. ARMIJO: I now move for the admission  
16 of 328.

17 THE COURT: Government's Exhibit 328 will  
18 be admitted into evidence.

19 (Government Exhibit 328 admitted.)

20 BY MS. ARMIJO:

21 Q. I believe we're going to start the clip at  
22 6087.

23 MR. JACKS: May we again request a  
24 limiting instruction?

25 THE COURT: Again, all these tapes you're

1 hearing through Mr. Duran are related to  
2 conversations with Mr. Baca so you can only consider  
3 them in connection with the charges against Mr. Baca  
4 and not as to the other three defendants.

5 BY MS. ARMIJO:

6 Q. And in looking at this recording, are you  
7 familiar with who this recording is between?

8 A. Myself and Anthony Ray Baca.

9 Q. Okay. If you could go ahead and start.

10 (Tape played.)

11 Q. Now, there is mention of "they have  
12 banquets and charity gatherings." What's this  
13 conversation about?

14 A. This conversation is about Anthony Ray  
15 Baca trying to discover locations of the targets so  
16 we could pinpoint their whereabouts, and he's giving  
17 me directive to research it on my cellphone, which I  
18 eventually tell him I have no internet and I can't  
19 research it.

20 Q. Now, and when you say "the targets," who  
21 are the targets?

22 A. The targets are the Secretary of  
23 Corrections, Gregg Marcantel, or STIU director  
24 Dwayne Santistevan.

25 Q. All right. If we could continue.

1 (Tape played.)

2 Q. Are you aware of what Anthony Baca is  
3 referring to in this part of the conversation?

4 A. Yes, ma'am.

5 Q. And can you explain that?

6 A. He's describing the area that's around --  
7 which is where most of the authorities live that  
8 work either in the prison or retired, and it's  
9 around the prison area. It's where the PNM North  
10 is. And the PNM South is built where the Old Main  
11 used to be. There's like housing on the side of  
12 that area, which is where a lot of these officers  
13 live.

14 Q. And is that where he was referring to  
15 where he was able to see it on his way in, and then  
16 also refer to Oasis Street?

17 A. Yes, ma'am.

18 (Tape played.)

19 Q. And do you know who Robert Bustos is?

20 A. No, ma'am.

21 Q. He's just referring to somebody where he  
22 found out where the person lived?

23 A. Yes, ma'am.

24 MS. ARMIJO: Your Honor, at this time we'd  
25 move the admission of 330.

1 THE COURT: Government's Exhibit 330 will  
2 be admitted into evidence.

3 (Government Exhibit 330 admitted.)

4 MR. JACKS: May we request a limiting  
5 instruction?

6 THE COURT: Again, this is conversation  
7 with Mr. Baca, and you can only consider it in your  
8 deliberations as to the charges against Mr. Baca and  
9 not the other three defendants.

10 BY MS. ARMIJO:

11 Q. Did you have continuing conversations with  
12 Anthony Baca about where the possible targets might  
13 live?

14 A. Yes, ma'am.

15 Q. And let's go to 330.

16 (Tape played.)

17 Q. And in this one, you indicated -- so you  
18 think Marcantel is living there? And who were you  
19 referring to?

20 A. The Secretary of Corrections, Gregg  
21 Marcantel.

22 Q. Okay. And what is the point of trying to  
23 figure out where he lives?

24 A. So the information could be handed down to  
25 the assailant who is going to assassinate the



1 Secretary of Corrections.

2 Q. And what premises, again -- are those the  
3 same premises you were referring to in the earlier  
4 recording where there are some premises that are  
5 possibly near the grounds of PNM?

6 A. Yes, ma'am. It's a continuance of  
7 conversations that we're having about the premises  
8 around the penitentiary.

9 MS. ARMIJO: And Your Honor, at this time  
10 I'd like to move for the admission of 344.

11 THE COURT: Government's Exhibit 344 will  
12 be admitted into evidence.

13 (Government Exhibit 344 admitted.)

14 MS. JACKS: May we request a limiting  
15 instruction?

16 THE COURT: All right. This, again, just  
17 relates to a conversation with Mr. Baca. So Mr.  
18 Baca's statements can only be used in connection  
19 with your deliberation as to the charges against  
20 him. And you may not use them in your deliberations  
21 as to the charges against the other three  
22 defendants.

23 Ms. Armijo.

24 MS. ARMIJO: If we could play the clip.

25 (Tape played.)

1 BY MS. ARMIJO:

2 Q. Now, we're talking about Rio Rancho. Do  
3 you know what this is in reference to?

4 A. This is in reference to him receiving  
5 information through Mario Montoya that he has  
6 received information that the target, which is the  
7 Secretary of Corrections Gregg Marcantel, lives in  
8 Rio Rancho.

9 Q. Okay. So now the focus isn't on the  
10 houses that are on the premises of PNM and now  
11 possibly that Gregg Marcantel lives in Rio Rancho?

12 A. Yes, ma'am.

13 Q. Now, are you aware of through -- did there  
14 come a point in time when you became aware that a  
15 gun was actually exchanged between Chris Garcia and  
16 Mario Montoya for the purposes of carrying out any  
17 sort of hits?

18 A. Yes, ma'am.

19 Q. And how were you made aware of that?

20 A. Me and Anthony Ray Baca made a phone call  
21 to Chris Garcia, who confirmed that the weapon was  
22 picked up at around 10:00 in the morning that day  
23 that we had called him.

24 MS. ARMIJO: All right. Your Honor, with  
25 that, the United States would move for the admission

1 of 418.

2 THE COURT: All right. Why don't counsel  
3 approach here?

4 (The following proceedings were held at  
5 the bench.)

6 THE COURT: If you need to rest it up  
7 there, you're welcome to.

8 All right 19832, the second "Garcia" to  
9 19832, the third "Garcia." All that inclusive is  
10 inadmissible hearsay, so that should be redacted  
11 out.

12 MS. ARMIJO: Can you give those again?

13 THE COURT: 19832 starting with the second  
14 "Garcia" down to 19835 through the third "Garcia."  
15 And then on 19838, starting at the fourth "Baca" and  
16 going to 19839, the third "Baca," through the third  
17 Baca, all that is irrelevant. So redact that.

18 MS. ARMIJO: Okay.

19 THE COURT: The 19840, starting with the  
20 third "Garcia," through 19840, so it's all the same  
21 page, but the fourth "Garcia," so that little bit is  
22 inadmissible hearsay. 19841, the third "Garcia"  
23 through 19842, the fourth "Baca," that's  
24 inadmissible hearsay, so that should be taken out.

25 19859, starting with the second "Garcia,"

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1 through 19859, the fifth "Baca," inclusive, all that  
2 is inadmissible hearsay.

3 MS. DUNCAN: It was the second "Garcia" to  
4 the fifth "Baca"?

5 THE COURT: Yeah, those are on the same  
6 page there. So the second "Garcia" through the  
7 fifth "Baca."

8 Then 19860 starting with the sixth  
9 "Garcia" through 19861, through the fourth "Garcia,"  
10 that's inadmissible hearsay and should be redacted.

11 19865, starting with the fifth "Garcia,"  
12 going through 19866, the third "Garcia," that's  
13 inadmissible hearsay and all that should be  
14 redacted.

15 And then the final one is a little bit  
16 like we've confronted before. I'll order it  
17 redacted at the present time. If the Government  
18 wants to come in and try to fight for it, they can.  
19 But at the moment, it will be redacted unless I hear  
20 otherwise.

21 So it's 19870, starting with the fifth  
22 "Garcia," to the end of that page. The fight that  
23 Mr. Baca describes is only relevant if it's an  
24 SNM-related one, and internally there is not  
25 evidence for me to make a determination that it is.

1 So without more information, that will have to be  
2 redacted. The rest of 418 are okay and can come in.

3 MS. ARMIJO: I'm sorry, Your Honor. The  
4 last one was --

5 THE COURT: 19870, starting with the fifth  
6 "Garcia" to the end of the page.

7 MS. ARMIJO: Okay.

8 THE COURT: Let me just make sure it's --  
9 actually, it's not the end of the page. It's the  
10 end of the transcript. So it will be through 19872.

11 MS. ARMIJO: Got it.

12 THE COURT: All right. Clear enough?

13 MS. ARMIJO: Yes, sir.

14 MR. JEWKES: Your Honor, and a limiting  
15 instruction with regard to Mr. Sanchez.

16 (The following proceedings were held in  
17 open court.)

18 THE COURT: All right. So Government's  
19 Exhibit 418 will be admitted into evidence.

20 (Government Exhibit 418 admitted.)

21 THE COURT: And again, these are comments  
22 or statements by Mr. Baca on this tape. And you can  
23 only consider them as to -- in your deliberations as  
24 to Mr. Baca and not as to the other three  
25 defendants.

1 All right, Ms. Armijo.

2 MS. ARMIJO: We're going to play 418.

3 (Tape played.)

4 BY MS. ARMIJO:

5 Q. All right. Now, they're referring to an  
6 individual, and when I say "they," it looks like  
7 this conversation is between Anthony Baca and Chris  
8 Garcia?

9 A. Yes, ma'am.

10 Q. And who are they talking about?

11 A. They're referring to the assailant, which  
12 is Mario Montoya, who picked up the weapon.

13 Q. All right. And just to be clear, I think  
14 you said it previously, but at this point are you  
15 aware that Mario Montoya was working with law  
16 enforcement?

17 A. No, ma'am.

18 Q. All right. Go ahead.

19 (Tape played.)

20 Q. Right there, there is a sentence to "We're  
21 trying to get that shit taken care of as soon as  
22 possible." What is that in reference to?

23 A. In reference to the hit on Marcantel, the  
24 Secretary of Corrections.

25 Q. Now, are you aware of approximately when

1 this conversation took place?

2 A. This conversation took place on, I  
3 believe, December 3.

4 Q. Okay. Well, wait. And I'm going to put  
5 something in context here. If you were arrested on  
6 December 3 -- and I have another -- are you aware if  
7 this conversation was on December 3 and -- well,  
8 or -- let me play it.

9 A. It might have been December 2.

10 Q. Okay. If we go back to the beginning of  
11 this conversation, he says that the gun was picked  
12 up the day before. Can we put it in context of when  
13 the gun was picked up?

14 A. The day before they were arrested.

15 Q. All right. So that would be a way of  
16 telling when this conversation took place; correct?

17 A. Yes, ma'am.

18 Q. All right. Now, you mentioned December 3.  
19 What happens on December 3?

20 A. The FBI came and arrested Anthony Baca and  
21 other SNM members that were housed in the same unit  
22 that I was housed in.

23 Q. All right. And was that a Thursday, if  
24 you recall?

25 A. I don't recall.

1 Q. Okay. Were you aware that that was going  
2 to happen that day, or were you -- had you not been  
3 told?

4 A. I wasn't aware that that was going to  
5 happen that day, no.

6 Q. Now, from the time that the gun was picked  
7 up, is the 3rd just a matter of a few days later?

8 A. Within a day, I believe.

9 Q. All right. If December 3 is a Thursday  
10 and the gun was picked up on the weekend, is it  
11 possible that there was more than three or four days  
12 between the gun being picked up and the roundup on  
13 December 3?

14 MS. DUNCAN: Your Honor, I'm going to  
15 object. The witness has answered the question. Now  
16 she's leading him.

17 A. If it was picked up on a weekend --

18 THE COURT: Hold on. Let me rule on the  
19 objection.

20 I think it's an appropriate question.  
21 I'll allow it. Overruled.

22 A. So I'm unclear exactly when the weapon was  
23 picked up, on what day.

24 BY MS. ARMIJO:

25 Q. All right. Because you were not there?



1 A. Yes, ma'am.

2 Q. And you do know that there was a  
3 conversation that occurred in which Chris Garcia is  
4 telling you that the firearm is picked up; correct?

5 A. Yes, ma'am.

6 Q. And then in between the time that you  
7 learn that the firearm is picked up, what's going on  
8 between you and Anthony Baca? I mean, are you  
9 discussing it? At this point you know that Mario  
10 Montoya has the firearm. What's going on?

11 A. Me and him are having discussion, and he  
12 was having trouble sleeping because he was trying to  
13 wake up in the morning to watch the news if the  
14 Secretary of Corrections was murdered.

15 MS. ARMIJO: All right, Your Honor, I'm  
16 going to move for the admission of 348.

17 THE COURT: All right. If counsel will  
18 approach.

19 (The following proceedings were held at  
20 the bench.)

21 THE COURT: All right. On 6171 to page  
22 6172 -- so it will start right underneath stuff  
23 we've already redacted. I'm using the redacted  
24 pages. Do you have those?

25 MR. BECK: Yes.

1 THE COURT: So anyway, that's inadmissible  
2 hearsay. So we need to take that out. So you know  
3 that the redactions -- I think it's inadmissible  
4 hearsay. Same problem on 6173. So 6171 to 73 is  
5 inadmissible hearsay. And then 6173 to 6174, that's  
6 inadmissible hearsay, as well.

7 MS. DUNCAN: I'm sorry -- so you're ruling  
8 that page 6171, 6172 and 6173 --

9 THE COURT: Yeah, on 6171, I think it's  
10 just down to where it says, "Pup: Yeah, Spanish,  
11 pause," take that out. Then the rest of it is sort  
12 of intro. And then on 6171 it's everything between  
13 the two redactions.

14 Then 6172, everything under the redactions  
15 down through that "Pup: Yeah, Spanish, pause."

16 And then on 6173, starting where it says  
17 "Confidential source: So anyways, yeah, that's why  
18 he was mad, though." The rest of that page and then  
19 on 6174, down to "CHS: What did Blue say when he  
20 told him?" And you could leave that and we can  
21 leave off the first sentence of the Pup. I guess  
22 you can leave the rest of the page in.

23 So then 6180, where it says in the middle  
24 of the page, "Pup: Unintelligible, fuck who don't  
25 never say nothing new," then the CHS's response,

1 those two statements need to be pulled out. Those  
2 are inadmissible hearsay.

3 So I'm sustaining three objections on  
4 inadmissible hearsay. Got those? Otherwise, it  
5 will come in.

6 MR. JEWKES: And Your Honor, obviously,  
7 Mr. Sanchez asks for a limiting instruction.

8 THE COURT: All right.

9 MR. JEWKES: Thank you.

10 (The following proceedings were held in  
11 open court.)

12 THE COURT: All right. Government's  
13 Exhibit 348 will be admitted into evidence.

14 (Government Exhibit 348 admitted.)

15 THE COURT: Again, these are statements of  
16 Mr. Baca and they may only be used by you in your  
17 deliberations of the charges against Mr. Baca and  
18 not in your deliberations against the other three  
19 defendants.

20 Ms. Armijo.

21 MS. ARMIJO: Let's start with the first  
22 clip, which is on Bates 6161.

23 (Tape played.)

24 BY MS. ARMIJO:

25 Q. All right. Who is Styx?

1           A.     Styx is Gerald Archuleta, and he is a  
2 high-ranking SNM member.

3           Q.     All right. And in this portion, is  
4 Anthony Baca indicating that he is above Styx?

5           A.     Yes, ma'am.

6           Q.     All right. We can go to the second clip,  
7 which begins on 6164.

8                     (Tape played.)

9           Q.     Now, you're talking about Eme. And I  
10 believe you say it, "Eme." What Eme are you  
11 referring to?

12          A.     The Eme is the Black Hand in California,  
13 Mexican Mafia.

14          Q.     And you're asking -- you're talking  
15 about -- you say, "If Mario hits the fucking  
16 secretary." What are you referring to?

17          A.     I'm referring to the Secretary of  
18 Corrections, Gregg Marcantel.

19          Q.     And why are you talking about notoriety  
20 with that?

21          A.     Asking Anthony Ray Baca if we were going  
22 to get notoriety or credibility through the hit on  
23 the Secretary of Corrections.

24          Q.     And what is his belief?

25          A.     He believed that we would.

1 Q. All right. Going to the third clip, which  
2 begins on 6168.

3 (Tape played.)

4 Q. And what are you starting to talk about  
5 here with Anthony Baca?

6 A. Anthony Baca is expressing to me his  
7 willingness to go above and beyond of the  
8 consequences to assassinate Secretary of Corrections  
9 Gregg Marcantel, and directing me to have Chris  
10 Garcia, which is an SNM Gang member who provided the  
11 weapon, destroy evidence so nothing would link them  
12 back to the SNM.

13 Q. All right.

14 (Tape played.)

15 Q. All right. And what is this in reference  
16 to?

17 A. This is in reference to Mario Montoya  
18 being in the area of the Secretary of Corrections'  
19 residence, and him being spotted by camera  
20 transaction footage, which would probably be around  
21 Secretary of Corrections Gregg Marcantel's house.

22 Q. All right. If we could play the next  
23 clip.

24 (Tape played.)

25 Q. Now, there is mention of getting up early

1 and watching the news. Are you aware of what --  
2 based on the entire conversation, what Anthony Baca  
3 was watching the news for?

4 A. He was watching the news in hopes that he  
5 would see the Secretary of Corrections, Gregg  
6 Marcantel, murdered; and we believed through a phone  
7 call that it was supposed to happen that night. So  
8 he was anxious and obviously expressing anxiety by  
9 being up early to watch the news.

10 Q. And let's watch the next clip.

11 (Tape played.)

12 Q. Are you aware of what this is in reference  
13 to?

14 A. This is in reference to the Javier Molina  
15 murder. All the individuals that were officially  
16 charged with state charges, they had dropped the  
17 state charges and the SNM members had assumed that  
18 the federal government was going to pick up those  
19 charges, so we were kind of nervous at this point.

20 Q. And when the state charges were dismissed,  
21 did it say in lieu of federal prosecution? Is that  
22 how they were made aware of it?

23 A. Yes, ma'am.

24 Q. And so is that when Pup is saying, "Well  
25 it's -- it's a federal thing now?" Is that in

1 reference to at least knowing at least the Molina  
2 incident was going to be federal?

3 A. He was acknowledging that Jerry Armenta  
4 wasn't a state witness no more. He was a federal  
5 witness now.

6 Q. All right. Playing 318. Continue  
7 playing.

8 (Tape played.)

9 Q. And whose family is he referring to?

10 A. He's referring to Jerry Armenta's family  
11 and expressing that we'll also get a lot more power,  
12 notoriety, and credibility through hitting his  
13 family members if he testifies.

14 Q. All right. Now, December 3, you indicated  
15 that there was shakedown in the prison and people  
16 were arrested?

17 A. Yes, ma'am.

18 Q. And when that occurred, did they shake you  
19 down, as well, to make it appear as if -- did they  
20 shake down all SNM members that were in the prison;  
21 are you aware?

22 A. They shook down the whole pod, yes, ma'am.

23 Q. Did they shake you down?

24 A. Yes, ma'am.

25 Q. And was your phone taken at that time?

1 A. My phone and the recording device was  
2 taken yes, ma'am.

3 Q. Now, after that, did you have more time to  
4 do on your sentence?

5 A. Yes, ma'am.

6 Q. And did you stay in custody after December  
7 3 of 2015?

8 A. Yes, ma'am.

9 Q. When was it that you were released, if you  
10 can recall?

11 A. I was released September 14 of 2016.

12 Q. And was that your original release date,  
13 or do you know if Corrections did anything to get  
14 you an early release for anything?

15 A. The Department of Corrections had awarded  
16 me a lump sum, which is within their guidelines of  
17 their policies and procedures for saving lives.

18 Q. And whose lives did you save?

19 A. Gregg Marcantel, Secretary of Corrections,  
20 and Dwayne Santistevan, Director of Security Threat  
21 Intelligence Unit.

22 Q. And so how long of time being in was your  
23 time cut?

24 A. By about two years.

25 Q. And when you got out, were you still



1 working for the FBI?

2 A. Yes, ma'am.

3 Q. Did the FBI locate -- relocate you to a  
4 different part of the country?

5 A. Yes, ma'am.

6 Q. And do you know why they relocated you to  
7 a different part of the country?

8 A. They relocated me to a different part of  
9 country to keep me and my family safe from the SNM  
10 Gang members.

11 Q. When you relocated, did you continue  
12 working for the FBI, but a different FBI agent?

13 A. Yes, ma'am.

14 Q. Were you involved in an ongoing  
15 investigation by the FBI agents in that state?

16 A. Yes, ma'am.

17 Q. And that was -- I guess you said you were  
18 released in late 2016; correct?

19 A. Yes, ma'am.

20 Q. And did that continue through 2017?

21 A. Yes, ma'am.

22 Q. Now, did you also receive benefits from  
23 the FBI as far as monetarily?

24 A. Yes, ma'am.

25 Q. And do you know how much approximately

1 over the time period that you have been rewarded?

2 A. I would say approximately \$50,000.

3 Q. And was part of that money used for  
4 relocation?

5 A. Mostly it was used to relocate, yes,  
6 ma'am.

7 Q. Now, did you have some problems, once you  
8 were out there, kind of out of custody, getting back  
9 used to being in society? Was it difficult?

10 A. It was difficult at times, yes, ma'am.

11 Q. Did your family move out with you?

12 A. They moved out to where I was located for  
13 a few months, yes, ma'am.

14 Q. Okay. And I guess I should ask, were you  
15 married at the time?

16 A. Yes, ma'am.

17 Q. Did you have any children?

18 A. Yes, ma'am. I have a daughter.

19 Q. Okay. And is she your daughter, or is she  
20 your stepdaughter?

21 A. She's my stepdaughter, but I've raised  
22 her, her whole life.

23 Q. And did your wife and she move out with  
24 you?

25 A. Yes, ma'am.

1 Q. Now, was there an incident in May of 2017  
2 in which authorities were investigating you for  
3 possibly slapping or assaulting your stepdaughter?

4 A. Yes, ma'am. There was allegation through  
5 the school that I had disciplined my child  
6 unnecessarily. And I spoke to authorities and it  
7 was later proven that I didn't break the law or harm  
8 my child in any way.

9 Q. Were you ever arrested for the incident?

10 A. No, ma'am.

11 Q. Was your daughter ever taken away from  
12 you?

13 A. No, ma'am.

14 Q. Was the FBI made aware of the situation?

15 A. Yes, ma'am.

16 Q. And if you do any new crimes, would that  
17 have ended your affiliation with working with the  
18 FBI?

19 A. Yes, ma'am.

20 Q. Now going forward to November of 2017,  
21 what was going on in your life then?

22 A. In 2017, I was just kind of tired of being  
23 where I was at.

24 Q. All right. When you say where you were  
25 at, do you mean the physical location, or what you

1 were doing, or both?

2 A. Both, in my life.

3 Q. In your life?

4 A. I was tired at that point in my life.

5 Q. All right. Now, up until then, had you  
6 been keeping in contact with either Special Agent  
7 Acee or the FBI people that you were working with  
8 out of state?

9 A. Yes, ma'am.

10 Q. And at some point -- I don't want to know  
11 facts about this incident, but were you arrested in  
12 the middle of November last year?

13 A. Yes, ma'am.

14 Q. Now, as a result of that arrest, did that  
15 cause a change in your relationship with the FBI?

16 A. Yes, ma'am.

17 Q. How so?

18 A. I made police contact, and I wasn't  
19 supposed to make police contact.

20 Q. And so what was going on in your mind?

21 A. I thought I was in trouble, so I  
22 absconded.

23 Q. So you absconded?

24 A. Yes, ma'am.

25 Q. All right. So after you had contact with

1 police, did you go to the FBI and say, "Hey, I  
2 messed up. You know, this is what happened"; or  
3 were you scared and took off?

4 A. No, I just -- there was no excuse. I just  
5 absconded. I didn't make any recognition to them  
6 that I had broke the law.

7 Q. And --

8 A. Allegedly broke the law.

9 Q. I'm sorry?

10 A. Or allegedly broke the law.

11 Q. And are you aware there is still the  
12 potential for you to be charged for the incident  
13 that happened there in November of 2017?

14 A. Yes, ma'am.

15 Q. And again, I'm not asking you to admit any  
16 facts, but were you arrested that night and there  
17 was an allegation that you were in possession of a  
18 firearm?

19 A. Yes, ma'am.

20 Q. And have there been made any promises to  
21 you by anybody, whether over there, by state or fed,  
22 or here in New Mexico, as to what will happen with  
23 those charges?

24 A. No, ma'am.

25 Q. And are you still on parole today?

1 A. I still am on parole today. My parole has  
2 been revoked, yes, ma'am.

3 Q. And is that why you are in custody for --

4 A. That's why I'm in this yellow suit, yes,  
5 ma'am.

6 Q. And after that arrest, you say you  
7 absconded. Were you eventually arrested on a parole  
8 violation on approximately December 15 of 2017?

9 A. Yes, ma'am.

10 Q. And when you were arrested, were you  
11 completely truthful with the officer that arrested  
12 you, or did you give him a false name initially?

13 A. I wasn't trying be captured, so I gave the  
14 officer a false name so I wouldn't be apprehended.

15 Q. Then you were brought back; is that  
16 correct?

17 A. Yes, ma'am.

18 Q. So as it stands now, your parole has been  
19 revoked?

20 A. Yes, ma'am.

21 Q. And how many -- how long, years, were you  
22 supposed to be on parole?

23 A. I was supposed to be on parole for two  
24 years.

25 Q. And I believe you mentioned yesterday

1 possibly that you also are on probation and your  
2 probation is going to be violated?

3 A. Yes, ma'am.

4 Q. And that's for the incident involving the  
5 shank?

6 A. Yes, ma'am.

7 Q. All right. Now, in reference to the  
8 recordings, early on in this case you mentioned --  
9 and we heard recordings of Anthony Baca. Did you  
10 also record Mario Rodriguez?

11 A. Yes, ma'am.

12 Q. Did you actually get any type of  
13 confession from Mario Rodriguez before realizing  
14 that the battery in the device died?

15 A. Yes, I didn't realize that. I was brought  
16 to that knowledge by the FBI that the battery died.

17 Q. Okay. And did you also -- I think we  
18 touched on it, but just to be clear, did you also  
19 get recordings from Roy Martinez and Robert  
20 Martinez?

21 A. Yes, ma'am.

22 Q. And did those occur prior to Anthony Baca  
23 being brought back?

24 A. Yes, ma'am.

25 Q. Now, you mentioned yesterday about knowing

1 Daniel Sanchez, and you talked about an incident  
2 regarding a person by the name of Rhino. Do you  
3 recall that?

4 A. Yes, ma'am.

5 Q. Okay. Was that incident SNM-related?

6 A. It was SNM-related, yes, ma'am.

7 Q. Okay. Tell us how so.

8 A. It was an orchestrated hit against Daniel  
9 Munoz, Rhino. He's a Sureno. He had jumped with --  
10 MR. JACKS: Your Honor, I'm going to  
11 object. This appears to be based on hearsay, unless  
12 the witness was percipient to the situation.

13 THE COURT: Why don't you lay some  
14 foundation, see how he acquired his knowledge?

15 A. I was in prison in 2005, and some  
16 assailants had jumped at a prison that I was at, and  
17 I was present during the time that the SNM  
18 members --

19 MS. JACKS: Objection, Your Honor. There  
20 is no question pending.

21 THE COURT: Hold on a minute.

22 BY MS. ARMIJO:

23 Q. Let me start back --

24 MS. JACKS: I'd ask that the response be  
25 stricken, given that it was a response to no



1 question.

2 THE COURT: Well, I won't strike the  
3 response for that basis. If there is some other  
4 reason, I'll consider it.

5 Ms. Armijo.

6 BY MS. ARMIJO:

7 Q. Does the incident regarding Rhino go back  
8 to an incident that you are personally aware of back  
9 when you were in Hobbs?

10 MS. JACKS: Objection, calls for a  
11 conclusion.

12 THE COURT: Well, if he has personal  
13 knowledge of what he's about to say, then I'll allow  
14 it. Why don't you ask him if he will?

15 BY MS. ARMIJO:

16 Q. Do you have personal knowledge about an  
17 incident that occurred that eventually led up to a  
18 different incident which Daniel Sanchez told you  
19 about, and that you -- and do you have information  
20 about that incident regarding Rhino, apart from what  
21 Daniel Sanchez told you about?

22 MS. JACKS: Objection, calls for  
23 conclusion, compound, and based on hearsay.

24 THE COURT: Well, I do think the question  
25 is going to have to be broken down. You're going to

1 have to take the incident before and see if he has  
2 any knowledge about it before he can testify about  
3 it.

4 BY MS. ARMIJO:

5 Q. Let me go back. You started to say that  
6 there was an incident that happened when you were in  
7 Hobbs; is that correct?

8 MS. JACKS: Objection, relevance.

9 THE COURT: Overruled.

10 A. Yes.

11 BY MS. ARMIJO:

12 Q. Is that incident that you were going to  
13 talk about related to the incidents regarding Daniel  
14 Sanchez and Rhino?

15 A. Yes, ma'am.

16 MS. JACKS: Objection. Calls for a  
17 conclusion based on hearsay, and compound.

18 THE COURT: Overruled.

19 BY MS. ARMIJO:

20 Q. And tell us, do you have personal  
21 knowledge, since you were in Hobbs, about the  
22 incident that happened at Hobbs?

23 A. Yes, ma'am.

24 Q. Were you an SNM Gang member back in 2005  
25 when you were at Hobbs?

1 A. Yes, ma'am.

2 Q. And tell us about the incident that  
3 occurred in Hobbs in 2005 that you have personal  
4 knowledge of since you were there.

5 MS. JACKS: Objection, irrelevant, unless  
6 it can be related to something not related by  
7 hearsay or conclusionary statements.

8 THE COURT: If he observed the -- if he  
9 observed it, I'll allow him to testify.

10 BY MS. ARMIJO:

11 Q. Did you -- were you -- did you observe the  
12 incident personally?

13 MR. JACKS: Objection, vague.

14 A. In Hobbs, yes, ma'am.

15 Q. We're talking about --

16 THE COURT: Overruled as to the objection.  
17 Go ahead.

18 Q. I'll be very specific. Is there an  
19 incident that happened in Hobbs, while you were  
20 there, that you are personally aware of from your  
21 personal observations?

22 A. Yes, ma'am.

23 Q. Before you tell us about it, was this  
24 incident related to the incident regarding Rhino and  
25 Daniel Sanchez?

1 MS. JACKS: Objection, calls for a  
2 conclusion.

3 A. Yes, ma'am.

4 MS. JACKS: Based on hearsay.

5 THE COURT: Overruled.

6 BY MS. ARMIJO:

7 Q. You can answer.

8 A. Yes, ma'am.

9 Q. All right. So let's go first now to the  
10 incident that you have personal knowledge of in  
11 2005. Tell us what happened there.

12 A. The incident occurred in 2005 at the  
13 facility in Hobbs, New Mexico. I and other SNM Gang  
14 members were housed at this facility. While being  
15 housed at this facility, two SNM Gang members were  
16 brutally beaten by other gang members, rival gang  
17 members, and they eventually went to PNM South with  
18 Rhino.

19 Q. Okay. Is Rhino -- was he an SNM Gang  
20 member?

21 A. He was a rival.

22 Q. Okay. So while you were there, two SNM  
23 Gang members were assaulted?

24 A. After the assault took place, all SNM Gang  
25 members had the green light to assault every rival

1 that was in New Mexico by our commander in chief,  
2 which was Arturo Garcia.

3 MR. JACKS: Objection, nonresponsive.

4 THE COURT: Overruled.

5 BY MS. ARMIJO:

6 Q. Okay. So just so that we're clear, this  
7 incident happens in Hobbs, and then -- where SNM  
8 members are attacked by rivals; is that correct?

9 A. Yes, ma'am.

10 Q. And then SNM members are moved to -- at  
11 least you, as well, to PNM North; is that correct?

12 A. They're moved to PNM South.

13 Q. I'm sorry, South. All right. Now as a  
14 result of that, were there orders given by one of  
15 the SNM leaders at the time as far as what should be  
16 done with rival gang members?

17 A. Yes, ma'am.

18 Q. Okay. And did you receive those orders?

19 A. Yes, ma'am.

20 Q. As part of being an SNM Gang member?

21 A. Yes, ma'am.

22 Q. What orders were received as a result of  
23 the Hobbs incident?

24 A. To kill all rivals.

25 Q. Now, after that order to kill all rivals,

1 are you aware of the incident regarding Daniel  
2 Sanchez that you spoke about yesterday and Rhino?

3 A. Yes, ma'am.

4 Q. Okay. Do you have knowledge, based  
5 upon -- and this is just yes or no. Do you have  
6 knowledge if the Rhino incident is based upon the  
7 order to hit rival gang members?

8 MR. JACKS: Objection. Calls for hearsay.

9 THE COURT: Overruled.

10 A. Yes, ma'am, it was a hit.

11 BY MS. ARMIJO:

12 Q. Okay. So you do have information on it.  
13 I guess that was my question first.

14 A. Yes, ma'am.

15 Q. And how do you have your information?

16 A. I was at the facility while he was hit.

17 Q. Okay. And did you subsequently have a  
18 conversation with Daniel Sanchez about that  
19 incident?

20 A. Yes, ma'am.

21 Q. And was the hit on Rhino, the attack on  
22 Rhino by Daniel Sanchez, related to the order that  
23 came down by Arturo Garcia?

24 A. Yes, ma'am.

25 MS. ARMIJO: If I may have a moment, Your

1 Honor?

2 THE COURT: You may.

3 MS. ARMIJO: I'll pass the witness.

4 THE COURT: Thank you, Ms. Armijo.

5 Ms. Jacks? Ms. Duncan?

6 MS. DUNCAN: Your Honor, I'm -- first, I  
7 wonder if we could take a quick break before I  
8 begin.

9 THE COURT: All right.

10 Let me introduce Mr. Del Valle. He's  
11 representing Mr. Duran. And so during  
12 cross-examination, he's going to be seated here  
13 where Mr. Candelaria was yesterday with Mr. Montoya.

14 All right. We'll be in recess for about  
15 15 minutes.

16 (The jury left the courtroom.)

17 THE COURT: All right. We'll be in recess  
18 for about 15 minutes.

19 (The Court stood in recess.)

20 THE COURT: All right. We'll go back on  
21 the record. Anything we need to discuss before we  
22 bring the jury in, Ms. Armijo?

23 MS. ARMIJO: No, Your Honor.

24 THE COURT: How about you, Ms. Duncan?

25 MS. DUNCAN: Your Honor, there is just one

1 transcript that I'll be moving to admit. It was  
2 Government's Exhibit 324.

3 THE COURT: Any objection to that, Ms.  
4 Armijo?

5 MS. ARMIJO: No, Your Honor. And I do  
6 think it's something that we should take care of  
7 before the jury comes in. I purposely, with  
8 Mr. Duran, only got into his prior felonies pre-SNM,  
9 as I would for 609. I don't think the facts are  
10 relevant, and are beyond the scope of an entry for  
11 609 purposes. So I ask in limine that defense  
12 counsel not get into that.

13 THE COURT: All right. Remind me what the  
14 crime is.

15 MS. ARMIJO: They were the aggravated --  
16 there was a burglary and then aggravated assault on  
17 a peace officer regarding -- it involves a vehicle  
18 incident. But it's what sent him to prison when he  
19 later became an SNM Gang member.

20 THE COURT: All right. But you don't have  
21 any problem with 324 coming in?

22 MS. ARMIJO: No.

23 THE COURT: Any objection from anyone  
24 else?

25 All right. Government's Exhibit 324 will



1 be admitted into evidence.

2 (Government Exhibit 324 admitted.)

3 THE COURT: And do you have any problem  
4 with the limitation she's suggesting?

5 MS. DUNCAN: I do, Your Honor. The  
6 underlying facts of Mr. Duran's many convictions  
7 show a disregard for law enforcement he's claiming  
8 to cooperate with now. They also show his character  
9 for dishonesty and lying to law enforcement about  
10 his identity, and his efforts to escape the  
11 consequences of his criminal conduct.

12 So I do intend to get into the details of  
13 the offenses.

14 THE COURT: Well, how does this differ  
15 from the defendants getting into the details of  
16 other informants?

17 MS. ARMIJO: Well, they did get into it  
18 with Robert Martinez. He was my witness. And I  
19 purposely stayed away from -- and I never got into  
20 it with others. There may have been other witnesses  
21 they got into it, but I know that we were very  
22 specific with certain witnesses that 609 rules  
23 apply, and they did not get into it. So it was not  
24 consistent.

25 But I am pretty certain that with my

1 cooperators -- and I know specifically with Mr.  
2 Martinez, his prior -- the facts of his prior felony  
3 convictions did not come in, and they were quite  
4 aggravating circumstances.

5 So certainly, Ms. Duncan has plenty to  
6 work from. But again, given his age and that he was  
7 not SNM, and that there is full admission as far as  
8 his purposes for 609. And it's even beyond 609.  
9 But we went ahead and covered it for 609.

10 THE COURT: Well, let's take them a  
11 question at a time. If it becomes, you know, a lot  
12 of collateral stuff, I may clip your wings and move  
13 on because it's getting redundant. But I do see  
14 that some of the questions Ms. Duncan outlined may  
15 have some non-609 purposes. In other words, not  
16 going just to his credibility, but to, you know,  
17 bias and prejudice here, now that he's cooperating.  
18 Let me take them a question at a time, but I'll be  
19 inclined to give her a little bit of leeway.

20 All rise.

21 (The jury entered the courtroom.)

22 THE COURT: All right. Mr. Duran, I'll  
23 remind you that you're still under oath.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. Ms. Duncan, if you

1 wish to commence your cross-examination of  
2 Mr. Duran, you may do so at this time.

3 MS. DUNCAN: Thank you, Your Honor.

4 THE COURT: Ms. Duncan.

5 CROSS-EXAMINATION

6 BY MS. DUNCAN:

7 Q. Mr. Duran, on direct examination you  
8 testified about investigation into allegations that  
9 you abused Ivy Maldonado; correct?

10 A. Yes, ma'am.

11 Q. And that investigation began when Ivy  
12 complained that you had slapped her when she tried  
13 to break up a fight between her and -- you and her  
14 mother, Grace Duran; correct?

15 A. Allegedly, yes.

16 Q. And when witnesses observed a bruise on  
17 Ivy's cheek, on the same cheek that she claimed that  
18 you slapped her?

19 A. Can you repeat the question? I didn't  
20 catch part of it.

21 Q. That the investigation began when  
22 witnesses observed a bruise on Ivy's cheek on the  
23 same side that you slapped her.

24 A. An investigation happened, yes, ma'am.

25 Q. And after witnesses observed bruises on

1 your wife, Grace Duran's, face; correct?

2 A. I'm not aware of that.

3 Q. And the investigation was closed because  
4 the officer investigating it determined he didn't  
5 have jurisdiction; correct?

6 A. I'm not aware of that, either.

7 Q. Are you aware that that officer -- well,  
8 after that incident, your wife, Grace Duran,  
9 returned to New Mexico with Ivy; correct?

10 A. Yes, ma'am.

11 Q. And are you aware that that officer  
12 contacted law enforcement in New Mexico to conduct  
13 welfare checks on Grace and Ivy?

14 A. I'm not aware of that.

15 Q. You're not aware that he made actually  
16 three calls to law enforcement to check on their  
17 well-being?

18 A. I only spoke to him one time; and no, I'm  
19 not.

20 Q. You indicated that although Ivy is not  
21 your biological daughter, you've raised her her  
22 whole life; correct?

23 A. Yes.

24 Q. And you've raised her from inside of  
25 prison?

1 A. Yes, ma'am.

2 Q. So you've mostly spoken to her by phone;  
3 correct?

4 A. Yes, ma'am.

5 Q. And you've provided Grace Duran with  
6 instruction on how to raise her also by phone;  
7 correct?

8 A. Yes, ma'am.

9 Q. And during those phone calls, you have  
10 instructed Grace Duran to beat Ivy's ass; correct?

11 A. No.

12 MS. DUNCAN: Your Honor, we would like to  
13 play Defendants' Exhibit Z46.

14 THE COURT: All right.

15 BY MS. DUNCAN:

16 Q. You are aware, Mr. Duran, that when you're  
17 in prison, the phone calls you make are recorded;  
18 correct?

19 A. Yes, ma'am.

20 Q. And you made calls to Grace Duran on the  
21 prison phone calls?

22 A. Yes, ma'am.

23 (Tape played.)

24 Q. The two voices that we just heard -- who  
25 was that?

1 A. Myself and my wife.

2 Q. If we can start at 710, please.

3 (Tape played.)

4 MS. DUNCAN: Your Honor, we had some  
5 trouble with the timing on this, so we may have to  
6 play it for a while.

7 (Tape played.)

8 BY MS. DUNCAN:

9 Q. At that point, Mr. Duran, you just  
10 instructed your wife to whoop Ivy's ass; correct?

11 A. Yeah, within the guidelines of the law.

12 Q. Let's play Defendants' Z25.

13 (Tape played.)

14 Q. So again, that's you and your wife, Grace  
15 Duran?

16 A. Yes, ma'am.

17 Q. Would you go to marker 11:30?

18 MS. ARMIJO: And, Your Honor, has there  
19 been a foundation as to when these calls occurred?

20 Q. So Mr. Duran, at the beginning of these  
21 recordings, we heard a recording that said this call  
22 was being made from the Penitentiary of New Mexico;  
23 correct?

24 A. Yes, ma'am.

25 Q. And when were you at the Penitentiary of

1 New Mexico?

2 A. Several times. Which time are you  
3 indicating?

4 Q. Why don't you tell us all the times that  
5 you've been at the Penitentiary of New Mexico.

6 A. I have been at the Penitentiary of New  
7 Mexico in 2007 to 2011. In '11, I went to the  
8 Penitentiary of New Mexico, South unit. In 2012, I  
9 left that facility.

10 Q. Were you at PNM in August -- June through  
11 August of 2016?

12 A. Yes, ma'am.

13 MS. DUNCAN: If we could have a moment,  
14 Your Honor?

15 THE COURT: You may.

16 BY MS. DUNCAN:

17 Q. While we're cuing up that call, Mr. Duran,  
18 I'd like to ask you, in addition to instructing your  
19 wife to whoop Ivy's ass, you also indicated that  
20 when you got out, you were going to whoop Ivy's ass,  
21 as well; correct?

22 A. Yes.

23 Q. And at one point that you were going to  
24 fuck her ass up; correct?

25 A. I don't recall that.

1 Q. We can play that one, too. We'll come  
2 back to that. We've having issues on that one.  
3 We'll come back on that.

4 You also testified about an arrest last  
5 year; correct? An arrest for being a felon in  
6 possession of a firearm?

7 A. Yes, ma'am.

8 Q. And that's not the only encounter with law  
9 enforcement you had last year, is it?

10 A. No, ma'am.

11 Q. In fact, you had, in addition -- you had  
12 the contact involving Ivy, and that was in May of  
13 2017; correct?

14 A. I believe so, yes, ma'am.

15 Q. And then your next encounter was in August  
16 of 2017; correct?

17 A. Yes, ma'am.

18 Q. And that was when you were contacted in  
19 connection with a prostitution ring; correct?

20 A. Yes, ma'am.

21 Q. You had dropped off a woman at a hotel  
22 known for prostitution?

23 A. Allegedly she was known for prostitution.  
24 Not by me.

25 Q. And when law enforcement approached you at



1 the hotel, you were cupping a needle full of liquid;  
2 correct?

3 A. Yes, ma'am.

4 Q. And you sprayed that liquid on the floor  
5 of the vehicle?

6 A. No.

7 Q. Are you aware that law enforcement alleged  
8 that you sprayed the liquid in the needle on the  
9 floor when they approached you?

10 A. Yes, ma'am.

11 Q. Your next encounter with law enforcement  
12 last year was on November 11, 2017; correct?

13 A. Yes, ma'am.

14 Q. And this was the incident that you  
15 testified to on direct with Ms. Armijo; correct?

16 A. Yes, ma'am.

17 Q. When you were found in a vehicle with  
18 several firearms?

19 A. Yes, ma'am.

20 Q. And one of those firearms was found under  
21 the seat that you were sitting in; correct?

22 MR. DEL VALLE: Your Honor, I'm going to  
23 object to any further questioning along these lines.  
24 That is a pending case, and my client will take the  
25 Fifth Amendment.

1 THE COURT: Are you going to follow his  
2 advice, Mr. Duran?

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: All right. So I'll not  
5 require the defendant -- or the witness to answer  
6 that question.

7 BY MS. DUNCAN:

8 Q. And you were not only being investigated  
9 for being a felon in possession of a firearm based  
10 on that incident, but also for being in possession  
11 of heroin; correct?

12 MR. DEL VALLE: Again, Your Honor, I'm  
13 going to make the same objection. It relates to the  
14 same incident.

15 THE COURT: Same? Are you going to follow  
16 that instruction, Mr. Duran?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: All right.

19 MS. DUNCAN: Your Honor, my question is:  
20 Is he being investigated for that.

21 THE COURT: I think these are getting a  
22 little close, so I'm going to observe the invocation  
23 of the Fifth and not require him to answer.

24 MS. JACKS: Your Honor, I think the  
25 witness' Fifth Amendment privilege is for the

1 witness to assert, not for his lawyer to object.

2 THE COURT: That's the reason I'm asking  
3 the question whether he's going to follow his  
4 counsel's advice. And so if he says, yes, I'll  
5 observe it.

6 BY MS. DUNCAN:

7 Q. During the course of that arrest, you told  
8 the arresting officer that you were an FBI  
9 informant; correct?

10 A. Yes, ma'am.

11 Q. You were hoping, by telling him you were  
12 an FBI informant, that you could escape those  
13 charges?

14 A. No, ma'am.

15 Q. To escape the consequences for your  
16 criminal conduct?

17 A. No, ma'am.

18 Q. But you were charged with being a felon in  
19 possession of a firearm; correct?

20 A. Yes, ma'am.

21 Q. And you were charged with being in  
22 possession of heroin; correct?

23 A. Yes, ma'am.

24 Q. Your next encounter with law enforcement  
25 this past year was November 27, 2017; correct?

1 A. Yes, ma'am.

2 Q. And in that, that was while the felon in  
3 possession charge was pending; correct? You were  
4 charged with being a felon in possession on November  
5 11, 2017; right?

6 A. Yes, ma'am.

7 Q. And so you were released on bail in that  
8 case; correct?

9 A. Yes, ma'am.

10 Q. And while that case was pending, you had  
11 another encounter with law enforcement; correct?

12 A. Yes, ma'am.

13 Q. On November 27, 2017?

14 A. Yes, ma'am.

15 Q. And in that incident, you were a passenger  
16 in a car that fled a traffic stop; correct?

17 A. Yes, ma'am.

18 Q. And the car was stolen?

19 A. Yes, ma'am.

20 Q. Eventually that car crashed; correct?

21 A. Yes, ma'am.

22 Q. And you ran away from the scene?

23 MR. DEL VALLE: Objection.

24 A. I was released.

25 THE COURT: Hold on. Listen to your

1 attorney here.

2 MR. DEL VALLE: Objection, Your Honor. I  
3 don't know that running away from the scene is a  
4 crime. A case may still be pending. And I'm going  
5 to advise my client to take the Fifth Amendment and  
6 not to testify as to anything involving that  
7 incident.

8 THE COURT: Are you going to follow that  
9 advice, Mr. Duran?

10 THE WITNESS: Yes, Your Honor.

11 THE COURT: So I will not require the  
12 witness to answer that question.

13 MS. DUNCAN: And Your Honor, just so I can  
14 make a record, on direct examination Mr. Duran  
15 answered Ms. Armijo's questions about giving a false  
16 name to law enforcement. So he did, in fact, answer  
17 questions about the details of this. So I'd like to  
18 inquire about that further.

19 A. That was a different time.

20 THE COURT: Hold on. I'll not require the  
21 defendant -- the witness to answer the question.

22 MR. DEL VALLE: If I may, Your Honor,  
23 respond to that?

24 THE COURT: You may.

25 MR. DEL VALLE: She's asking: And you ran

1 away. She's putting facts not in evidence. She's  
2 putting allegations --

3 THE COURT: Well, let's do this: You've  
4 instructed the witness.

5 MR. DEL VALLE: So I've instructed my  
6 witness, my client --

7 THE COURT: All right. Next question, Ms.  
8 Armijo.

9 MS. DUNCAN: Ms. Duncan.

10 THE COURT: Ms. Duncan.

11 MS. DUNCAN: Thank you, Your Honor.

12 BY MS. DUNCAN:

13 Q. So you gave a fake name to the law  
14 enforcement officer when he approached you on that  
15 date; correct?

16 A. No, that was a totally different day.

17 Q. You told him that your name was Brett  
18 Coleman?

19 A. That's on December 15, not November 27.

20 Q. Thank you for clarifying that.

21 On December 15 is when you were arrested  
22 on the warrant out of New Mexico; correct?

23 A. Yes, ma'am.

24 Q. Okay. So it's on that day that you gave  
25 the false name of Brett Coleman; correct?

1 A. Yes, ma'am.

2 Q. And during the arrest, you claimed to be  
3 on the phone with your lawyer?

4 A. Yes, ma'am.

5 Q. And that you were going to file a claim  
6 for police harassment?

7 A. Yes, ma'am.

8 Q. But you weren't. That was a lie; correct?

9 A. No. I was on the phone with my lawyer.

10 Q. Claiming police harassment?

11 A. Yes, ma'am.

12 Q. And you continued to deny your true  
13 identity to the officer; correct?

14 A. Yes, ma'am.

15 Q. And the officer eventually had to run  
16 fingerprints to identify you?

17 A. Yes, ma'am.

18 Q. The State of New Mexico then sought to  
19 extradite you here because of your probation  
20 violation; correct?

21 A. Because of my parole violation, yes,  
22 ma'am, and probation.

23 Q. And you sought to fight extradition to New  
24 Mexico; correct?

25 A. I fought it? No.

1 Q. Would it surprise you to learn that Agent  
2 Acee reported that you were fighting extradition?

3 A. No, I didn't fight extradition.

4 Q. You had signed waiver papers, in fact, as  
5 part of your probation to waive extradition;  
6 correct?

7 A. Yes, ma'am.

8 Q. So even if you had fought extradition, it  
9 would have been futile?

10 A. Yes, ma'am.

11 Q. When you arrived in New Mexico, Agent Acee  
12 obtained a DNA sample from you; correct?

13 A. Yes, ma'am.

14 Q. And that's in relation to a potential  
15 federal felon in possession of a firearm charge;  
16 correct?

17 A. Yes, ma'am.

18 Q. But you haven't been charged yet?

19 A. No, ma'am.

20 Q. Now, claiming that your name was Brett  
21 Coleman is not the first time you've used a false  
22 identity; correct?

23 A. No, ma'am.

24 Q. You also, in 1998, claimed that your name  
25 was Johnny Joe Lucero; correct?



1 MS. ARMIJO: Objection, Your Honor --  
2 actually, as to this incident, no.

3 A. Yes, ma'am.

4 Q. And that was during an arrest for an armed  
5 robbery in El Paso, Texas; correct?

6 A. Yes, ma'am.

7 Q. And in 1998, when you were arrested for  
8 aggravated assault on a police officer, you falsely  
9 claimed that your name was Adrian Garcia; correct?

10 A. Yes, ma'am.

11 Q. More recently, in November of 2016, you  
12 held out as Zo Major -- you used Zo Major as your  
13 name; correct?

14 A. Yes, ma'am.

15 Q. And that's not your name?

16 A. That's my artist name, to my recollection,  
17 yes, ma'am.

18 Q. In May 2017, you used the name Zo Holiday;  
19 correct?

20 A. Yes, ma'am.

21 Q. And, in June 2017, the name Zo Meechie?

22 A. Yes, ma'am, social media, Facebook.

23 Q. I'd like to show you what has been marked  
24 as Defendants' Exhibits AE1 through AE5.

25 MS. DUNCAN: May I approach?

1 THE COURT: You may.

2 BY MS. DUNCAN:

3 Q. If you could look at these pictures and  
4 tell me if you recognize them.

5 A. Pictures of myself on my Facebook page --  
6 all my Facebook pages.

7 Q. These are pictures that you caused to have  
8 taken of yourself?

9 A. Yes, ma'am.

10 MS. DUNCAN: Your Honor, at this time, I'd  
11 move the admission of Defendants' Exhibit AE1  
12 through AE5.

13 THE COURT: Any objection?

14 MS. ARMIJO: No, Your Honor.

15 THE COURT: Anybody else have any  
16 objection?

17 MR. JACKS: No.

18 THE COURT: All right. Defendants'  
19 Exhibits AE1 through AE5 will be admitted into  
20 evidence.

21 (Defendants' Exhibit AE1 through AE5  
22 admitted.)

23 MS. DUNCAN: Your Honor, if we can publish  
24 these to the jury. I'll start with AE1.

25

1 BY MS. DUNCAN:

2 Q. And this is a picture that you caused to  
3 have taken of yourself, Mr. Duran?

4 A. Yes, ma'am.

5 Q. And was this a picture of you as Zo  
6 Meechie, Zo Major or Zo Holiday?

7 A. Zo all of them.

8 Q. And is that money in your pockets?

9 A. Yes, ma'am.

10 Q. Is that money you received from the FBI?

11 A. No, ma'am.

12 Q. If we could see AE2, please. And this  
13 picture AE2, is this Zo Major, Zo Holiday, or Zo  
14 Meechie?

15 A. Zo all of them. Every one of them.

16 Q. And the jewelry that we see in this  
17 picture -- is that jewelry that was purchased with  
18 money provided to you by the FBI?

19 A. No, ma'am.

20 Q. And if we could see AE3, please. This  
21 photograph, is this Zo Meechie, Zo Major, or Zo  
22 Holiday?

23 A. All of them.

24 Q. Is that money that was provided to you by  
25 the FBI?

1 A. No, ma'am.

2 Q. How much money are you throwing in the air  
3 in that picture, Mr. Duran?

4 A. Probably about \$1,000.

5 Q. If I could now show you AE4. And is this  
6 you as Zo Major, Zo Meechie, or Zo Holiday?

7 A. All three of them.

8 Q. And that fur coat. Did you buy that fur  
9 coat with money provided to you by the US  
10 Government?

11 A. Yes, ma'am.

12 Q. And the watch you're wearing. Did you buy  
13 that with money provided to you by the US  
14 Government?

15 A. No, ma'am.

16 Q. And I think this one shows it better. If  
17 we could now see Defendants' Exhibit AE5. Is this  
18 you as Zo Major, Zo Meechie, or Zo Holiday?

19 A. All of them.

20 Q. And I see some gold in your teeth. What  
21 is that?

22 A. It's a gold grille with diamonds.

23 Q. How much did that cost?

24 A. About \$1,500.

25 Q. And was that bought with money given to

1 you by the federal government?

2 A. Yes, ma'am.

3 Q. And the money you're holding in your  
4 hands -- how much money is that?

5 A. I'm not sure.

6 Q. Is that money that was given to you by the  
7 federal government?

8 A. No, ma'am.

9 Q. Other than the names we've discussed, have  
10 you ever identified yourself under a name that's not  
11 your own?

12 A. No, ma'am.

13 MS. DUNCAN: Have we been able to fix the  
14 phone calls? We'll come back to that. I'll leave  
15 that for later.

16 Q. I would like to ask you about -- well, I'd  
17 like to -- when you were being questioned by Ms.  
18 Armijo on direct, she played some recordings that  
19 you made; correct?

20 A. Several, yes, ma'am.

21 Q. Now when you made those recordings, you  
22 controlled the recorder; correct?

23 A. Yes, ma'am.

24 Q. You controlled when it got turned on and  
25 when it got turned off?

1 A. Yes, ma'am.

2 Q. And at the time, you knew that you were  
3 being recorded; you were recording yourself;  
4 correct?

5 A. Yes.

6 Q. And Mr. Baca did not know you were  
7 recording him; is that right?

8 A. No, ma'am.

9 Q. And the purpose was to get evidence for  
10 the Government; correct?

11 A. Yes, ma'am.

12 MS. DUNCAN: So at this point, Your  
13 Honor --

14 Q. Well, we heard some discussion, and I  
15 think added some commentary about Mr. Baca agreeing  
16 to the hit on Gregg Marcantel; correct?

17 A. Yes, ma'am.

18 Q. When you first raised the issue of hitting  
19 Gregg Marcantel to Mr. Baca, he said, "No"; correct?

20 A. At one point, yes, ma'am.

21 Q. And that is in Government's Exhibit 324,  
22 if we could play that.

23 MS. DUNCAN: And Your Honor, we're just  
24 going to admit the portion that we're going to play,  
25 not the entire transcript or the entire recording; I

1 apologize.

2 MS. ARMIJO: Your Honor, since it's not  
3 the Government's exhibit, I would request that the  
4 whole transcript be admitted. If they just want to  
5 play a portion, then maybe they can make it a  
6 defense exhibit. But since it's a Government's  
7 exhibit, we request the whole exhibit be admitted.

8 MS. DUNCAN: We can make it into a defense  
9 exhibit, Your Honor. And Your Honor, it would be  
10 Defendants' FR. And that would be the recordings.

11 THE COURT: And you're moving its  
12 admission?

13 MS. DUNCAN: Yes, Your Honor.

14 THE COURT: Any objection, Ms. Armijo, to  
15 FR?

16 MS. ARMIJO: No, Your Honor.

17 THE COURT: Not hearing any objection,  
18 Defendants' FR will be admitted into evidence.

19 (Defendants' Exhibit FR admitted.)

20 (Tape played.)

21 BY MS. DUNCAN:

22 Q. That's the conversation that we were just  
23 discussing, Mr. Duran?

24 A. That was one of the first conversations we  
25 had, yes, ma'am.

1 Q. Where you raised the name of Marcantel,  
2 and Mr. Baca said "No."

3 A. Yes, ma'am.

4 Q. And in fact, you first started cooperating  
5 February 19 of 2015; correct?

6 A. Yes, ma'am.

7 Q. And during that conversation, you told law  
8 enforcement that the plan -- Mr. Baca's plan was to  
9 hit Mr. Santistevan and not Mr. Marcantel; correct?

10 A. Both, either/or.

11 MS. DUNCAN: Your Honor, if we could, I'm  
12 now going to play a clip from Defendants' Exhibit  
13 ED, ED1.

14 THE COURT: And has this been admitted?

15 MS. DUNCAN: Your Honor, no, it hasn't  
16 been admitted. We're just playing it for  
17 impeachment purposes.

18 (Tape played.)

19 BY MS. DUNCAN:

20 Q. So on that clip, Mr. Duran, law  
21 enforcement asked you if the hit was on both  
22 Mr. Santistevan and Marcantel. And you said, "No,  
23 just on Santistevan"; correct?

24 A. Yes, ma'am.

25 Q. In fact, it wasn't until August of 2015



1 that you first told law enforcement that Mr. Baca  
2 was eager to hit Mr. Marcantel; correct?

3 A. Yes, ma'am.

4 Q. Now, when you first agreed to cooperate  
5 with law enforcement, back on February 19 of 2015,  
6 you testified on direct that you had decided to make  
7 the right decisions and change your life; correct?

8 A. Yes, ma'am.

9 Q. And you told law enforcement that you  
10 wanted to give back to the community; correct?

11 A. Yes, ma'am.

12 Q. And that you were unlike other people who  
13 tried to cooperate because you were not in trouble?

14 A. Yes, ma'am.

15 Q. But in fact, you were in trouble at that  
16 time?

17 A. Not to my knowledge.

18 Q. Well, you knew that a week before, a shank  
19 had been found in your cell; correct?

20 A. If you consider it a shank, yes, ma'am.

21 Q. Well, law enforcement considered it a  
22 shank.

23 A. Law enforcement considers a lot of things  
24 shanks.

25 Q. It's law enforcement who decides whether

1 or not you're going to be in trouble for possession  
2 of a weapon; correct?

3 A. I didn't know I was in trouble.

4 Q. Well, you knew they had found something  
5 that they considered to be a shank; correct?

6 A. I wasn't told I was in trouble for it. It  
7 was a piece of an eyeglass.

8 Q. Mr. Duran, at that point you had been  
9 convicted of possession of a shank; correct?

10 A. A real shank, yes.

11 Q. And you had been sentenced to a year in  
12 prison for that shank?

13 A. And five years' probation, yes.

14 Q. And you had lost some good time and faced  
15 other sanctions from the Department of Corrections;  
16 correct?

17 A. Yes, ma'am.

18 Q. And when you met with law enforcement in  
19 February of 2015, you discussed the shank that was  
20 found in your cell; correct?

21 A. Yes, ma'am.

22 Q. And STIU officers were with you at that  
23 time; correct?

24 A. Yes, ma'am.

25 Q. And those officers described it as a

1 shank; correct?

2 A. Which shank are you talking about?

3 Q. The shank that was found in your cell in  
4 February of 2015.

5 A. No, they didn't describe it as a shank.

6 Q. If you could go to -- let me show you a  
7 transcript, Mr. Duran, of your interview with law  
8 enforcement.

9 Let me ask a different way. Eventually,  
10 you were sanctioned for the weapon that was found in  
11 your cell; correct?

12 A. No, I wasn't. The report was dropped. I  
13 was sanctioned for assault, verbal assault.

14 Q. That was a different incident; correct?  
15 That was when you threatened to kill the law  
16 enforcement officer; correct?

17 A. Yes, ma'am.

18 Q. You were also sanctioned for possession of  
19 a shank?

20 A. No, the report got dropped.

21 Q. You were placed on Interim Level 6 pending  
22 review after finding -- law enforcement found the  
23 shank; correct?

24 A. Yes, ma'am. That's the initial placement  
25 before you receive your report.

1 Q. Correct. And you were put into the  
2 prehearing detention because a homemade weapon was  
3 discovered in your cell; correct?

4 A. Until the report was dismissed, yes,  
5 ma'am. That's prehearing detention.

6 Q. Correct. And we'll have an officer come  
7 in and talk about that shank, Mr. Duran. So if  
8 you'd just answer my questions.

9 Let's get to the second report. The day  
10 before you met with law enforcement, you threatened  
11 to kill a law enforcement officer; correct?

12 A. Yes, ma'am.

13 Q. And in making that threat to the officer,  
14 you yelled out his home address; correct?

15 A. Allegedly.

16 Q. What you believed to be his home address?

17 A. I didn't yell out nothing. But that's  
18 what he said.

19 Q. And you yelled that out, and you also  
20 yelled out what kind of car he drove; correct?

21 A. No.

22 Q. According to him?

23 A. According to him, yes, ma'am.

24 Q. And you were found guilty of that  
25 allegation; correct?

1 A. Yes, ma'am.

2 Q. You were found guilty of making direct  
3 threats to the life of that officer?

4 A. Yes.

5 Q. And you lost 30 days of disciplinary --  
6 you were placed in disciplinary restrictive housing  
7 for 30 days?

8 A. Yes.

9 Q. And you lost 60 days and all privileges;  
10 correct?

11 A. Yes, ma'am.

12 Q. And at the time you were interviewing with  
13 officers in February 19, 2015, you were on  
14 prehearing detention; correct?

15 A. Yes.

16 Q. And had been in restriction for almost a  
17 year; is that right?

18 A. Yes, ma'am.

19 Q. But that was continued in February 19 of  
20 2015 -- or in February of 2015 based on, first, the  
21 shank, and then the threat to Officer Urtiaga;  
22 correct?

23 A. Yes, ma'am.

24 Q. And during your first conversation with  
25 law enforcement, you discussed with them things that

1 they could do to help you; correct?

2 A. With law enforcement or correctional  
3 officers?

4 Q. Well, correctional officers are law  
5 enforcement officers, aren't they, Mr. Duran?

6 A. There's two different -- there's officers  
7 on the streets and there are correctional officers.  
8 I spoke to two different entities.

9 Q. When you were talking to the FBI and to  
10 Corrections, you talked about what you'd like to get  
11 from Corrections; correct?

12 A. Yes, ma'am.

13 Q. You discussed with them about getting good  
14 time returned to you?

15 A. Yes, ma'am.

16 Q. And you lost good time because of the  
17 possession of the shank for which you were  
18 ultimately convicted; correct?

19 A. Yes, ma'am.

20 Q. And you lost good time because of your  
21 possession of a cellphone, which you testified to on  
22 direct examination; correct?

23 A. Yes, ma'am.

24 Q. And you were facing the potential  
25 additional loss of good time based on the shank that

1 was found in your cell the week before?

2 A. Yes, ma'am.

3 Q. And, at that point, for the threats you  
4 made against Officer Urtiaga?

5 A. Yes, ma'am.

6 Q. You also had a conversation with the  
7 correctional officers about restoring the privileges  
8 you had lost; correct?

9 A. I don't recall.

10 Q. Let's see if we can turn -- I will show  
11 you what we have marked as ED6, just for  
12 demonstrative purposes. Let me show you what has  
13 been marked as Defendants' Exhibit ED6. It's a  
14 transcript of the interview that you did on February  
15 19, 2015. I'm showing you page 13. If you could  
16 look at page 13 and 14 of that transcript.

17 A. Okay.

18 Q. So in that meeting -- let me get that back  
19 from you. In that meeting you discussed with  
20 correctional officers getting back some of the  
21 property that was taken from you while on prehearing  
22 detention; correct?

23 A. Not in trade for information, no.

24 Q. That wasn't my question. My question was:  
25 During the interview in February of 2015, you

1 discussed with correctional officers getting back  
2 some of your privileges?

3 A. Yes, ma'am.

4 Q. You discussed -- you told them that it was  
5 okay for them to keep your TV, but you wanted the  
6 rest of your property; correct?

7 A. Yes, ma'am.

8 Q. But you wanted your canteen back?

9 A. Yes, ma'am.

10 Q. And you wanted your phone privileges  
11 restored?

12 A. Yes.

13 Q. And the STIU agreed that they would help  
14 with all of that; correct?

15 A. Yes, ma'am.

16 Q. And at that point you were using other  
17 inmates' PIN numbers to call your family?

18 A. Yes, ma'am.

19 Q. Because they had restricted your phone  
20 calls?

21 A. Yes, ma'am.

22 Q. And you were ultimately given, in exchange  
23 for your cooperation, unlimited phone calls with  
24 your family; correct?

25 A. Yes, ma'am.



1 Q. You also discussed with the -- well, I'll  
2 get to that in a minute.

3 During that interview, you testified on  
4 direct examination that you've been a member of the  
5 SNM since 2005; correct?

6 A. 2003.

7 Q. Oh, 2003. That's correct. Okay. So when  
8 you talked to law enforcement in February of 2015,  
9 however, you denied that you were an SNM member;  
10 correct?

11 A. Not that I recall.

12 Q. If we could play ED3, please. And again  
13 this is from your February 2015 interview.

14 (Tape played.)

15 Q. So in response to the question: "How long  
16 have you been in SNM? A long time?" you answered,  
17 "Actually, I haven't really been a member"; correct?

18 A. Yes, ma'am.

19 Q. And then, if we could go to clip Number 4,  
20 ED4.

21 (Tape played.)

22 Q. So again, Mr. Duran, you denied to law  
23 enforcement that you were an SNM member; correct?

24 A. Yes, ma'am.

25 Q. And you testified at a hearing in this

1 case a month ago; correct?

2 A. Yes, ma'am.

3 Q. And at that hearing, you testified you  
4 were an SNM member; correct?

5 A. Yes, ma'am.

6 Q. At that hearing, you testified that you  
7 joined the SNM in 2005; correct?

8 A. I don't recall.

9 Q. Let me show you a transcript of that  
10 proceeding. I'm showing you page 78 of the official  
11 transcript from that hearing, the highlighted  
12 portion. So at that hearing about a month ago, you  
13 testified that you became a member of the SNM in  
14 2005; correct?

15 A. At that point, I didn't comprehend your  
16 question when I made that statement, yes, ma'am.

17 Q. So the question asked by Ms. Armijo: "Are  
18 you a member of that prison gang?" What about that  
19 question confused you?

20 A. I said, "Yes."

21 Q. "When did you become a member?" she asked  
22 you, and you said, "2005"; correct?

23 A. Well, I meant 2003.

24 Q. Then on cross-examination in that same  
25 transcript, you testified during that hearing twice

1 that you'd joined the SNM in 2005; correct?

2 A. I'm not sure. Is that what you're saying  
3 I did?

4 Q. That's what I'm asking you. Do you  
5 remember that you testified twice?

6 A. I don't recall.

7 Q. I'm going to show you what's page 93 of  
8 the official transcript and -- actually, let's go  
9 back. That hearing was on January 8 of 2018;  
10 correct?

11 A. Yes, ma'am.

12 Q. And that was in the same courtroom;  
13 correct?

14 A. Yes, ma'am.

15 Q. In front of Judge Browning?

16 A. Yes, ma'am.

17 Q. And you were placed under oath in that  
18 hearing, as well?

19 A. Yes, ma'am.

20 Q. I'm showing you page 93. I asked you --  
21 you testified on direct that you were a member of  
22 the SNM beginning in 2005; correct? And you  
23 answered "Correct"?

24 A. Yes, ma'am.

25 Q. And during that hearing, you also denied

1 having previously denied your membership in the SNM;  
2 correct?

3 A. I previously denied it?

4 Q. I asked you at that hearing whether or not  
5 you had previously denied that you were a member of  
6 the SNM. Do you remember that question?

7 A. Yes, ma'am.

8 Q. And you said that you couldn't recall  
9 having denied that you were a member of the SNM?

10 A. Yes, ma'am.

11 MS. ARMIJO: Your Honor, may we approach?

12 THE COURT: You may.

13 (The following proceedings were held at  
14 the bench.)

15 MS. ARMIJO: I thought as part of the  
16 conflict issue, Mr. Lowry was not going to be  
17 assisting with the cross-examination of Mr. Duran.  
18 I saw Mr. Lowry give Ms. Duncan a note. So I  
19 understand the Court is not going to take him off,  
20 but we would ask at least that he be firewalled from  
21 assisting with this cross-examination, especially  
22 given that the opening statements and our most  
23 recent motion was denied.

24 THE COURT: Well, I won't wall him off.

25 But it was part of the representation, I guess. If

1 he's going to come up and feed you questions and  
2 stuff like that, it seems to me it's not consistent  
3 with --

4 MS. DUNCAN: I can ask him not to do that,  
5 Your Honor.

6 THE COURT: Okay.

7 (The following proceedings were held in  
8 open court.)

9 THE COURT: All right. Ms. Duncan.

10 MS. DUNCAN: Thank you, Your Honor.

11 BY MS. DUNCAN:

12 Q. Around the time that you began to  
13 cooperate with the Government, you were engaged in a  
14 scam of a woman named Carolyn Bueno; correct?

15 A. A scam?

16 Q. Yes.

17 A. No, ma'am.

18 Q. Do you know a woman named Carolyn Bueno?

19 A. Yes, ma'am.

20 Q. And you used her to get money; correct?

21 A. No, ma'am.

22 Q. Do you recall having a conversation with  
23 your wife, Grace Duran, about Carolyn Bueno?

24 A. Yes, ma'am.

25 Q. And in that conversation with your wife,

1 you told your wife that you used Carolyn Bueno to  
2 get money?

3 A. I tell my wife whatever I tell my wife.

4 Q. Did you tell your wife --

5 A. Yes ma'am.

6 Q. -- that you used Carolyn Bueno to get  
7 money? Let me ask the question and then you answer,  
8 okay, Mr. Duran, so we have a clear record?

9 You also told your wife that you used  
10 Carolyn Bueno to get drugs; correct?

11 A. Yes, ma'am.

12 Q. And that you had the same deal with a  
13 woman named Linda Pena; correct?

14 A. Yes.

15 Q. And you would use her to get money?

16 A. Yes, ma'am.

17 Q. And you would use her to get drugs?

18 A. I don't recall that.

19 Q. And you would -- to their face, you would  
20 tell them that you loved them; correct?

21 A. And I did love them.

22 Q. But to your wife, you would call them  
23 names and tell her that you were using them;  
24 correct?

25 A. Yes, ma'am.

1 Q. And eventually you introduced Carolyn  
2 Bueno to Jerry Armenta; correct?

3 A. Yes, ma'am.

4 Q. I think we saw a video of that earlier.  
5 You are aware that the discovery in this  
6 case was loaded on tablets; correct?

7 A. Yes, ma'am.

8 Q. And that included witness statements,  
9 pictures, et cetera?

10 A. I don't know what was on them.

11 Q. Well, you looked at the tablets; correct?

12 A. No, I didn't look at the tablets.

13 Q. You looked at Jerry Armenta's tablet;  
14 correct?

15 A. No, ma'am.

16 Q. If we could play Defendants' Exhibit Z40,  
17 please; let me find my --

18 MS. DUNCAN: Sorry, Your Honor. I'm  
19 messing up all my papers up here.

20 (Tape played.)

21 Q. That was your voice; correct, Mr. Duran?

22 A. Yes.

23 Q. If we could go to marker 1540, please.  
24 We've having some technical difficulties. Try  
25 Defendants' Exhibit 733 -- Z33, I'm sorry. Did I

1 say something different? Play the beginning of that  
2 one, so that would be at a minute 144, please.

3 (Tape played.)

4 Q. When you say, "Kreaper's laptop," you're  
5 talking about Kreaper's tablet; correct?

6 A. Yes, ma'am.

7 (Tape played.)

8 Q. Do you recall telling Grace that you were  
9 looking at Kreaper's tablets and reading texts  
10 between you and her?

11 A. Yes, Kreaper showed me his tablets with  
12 the texts.

13 Q. So you did have access to Kreaper's  
14 tablet; correct?

15 A. No, I didn't have access to it.

16 Q. But you looked at Kreaper's --

17 A. He showed it to me.

18 Q. So you looked at the tablet; correct?

19 A. Yes, ma'am.

20 Q. You were able to read discovery on the  
21 tablet; correct?

22 A. I read that part of the discovery.

23 Q. You were in a pod with Kreaper for how  
24 long?

25 A. A year.



1 Q. And by "Kreaper," we mean Jerry Armenta;  
2 correct?

3 A. Yes, ma'am.

4 Q. And you were also with other Government  
5 witnesses during that time?

6 A. Yes, ma'am.

7 Q. Who else were you with?

8 A. I was with Freddie Munoz, Benjamin Clark,  
9 Robert Martinez. That's it.

10 Q. Did you look at anyone's tablet other than  
11 Jerry Armenta?

12 A. Did I see? Yes, I probably did. I'm  
13 sure.

14 Q. We talked a little bit about the charges  
15 you've incurred since agreeing to work with the  
16 Government. I would like to talk to you about your  
17 past charges.

18 Your first conviction, the one that  
19 brought you to prison, was in 1997 for aggravated  
20 burglary; correct?

21 A. Yes.

22 Q. Conspiracy to commit forgery?

23 A. Yes.

24 Q. Criminal damage to property?

25 A. Yes, ma'am.

1 Q. And it was joined with a case for  
2 resisting an officer; correct?

3 A. Yes, ma'am.

4 Q. In that case you were sentenced to 13 and  
5 a half years?

6 A. Yes, ma'am.

7 Q. Most of which was suspended; correct?

8 A. Yes, ma'am.

9 Q. And in that charge, you broke into  
10 someone's house and stole guns; correct?

11 MS. ARMIJO: Objection, Your Honor, 609.

12 THE COURT: Well, what's the purpose,  
13 other than truthfulness, that you're trying to  
14 establish with this testimony?

15 MS. DUNCAN: Your Honor, this witness  
16 committed the crime of theft of guns. He conspired  
17 to commit forgery, and he forged checks, which was  
18 an act of dishonesty. And I think those are facts  
19 that the jury is entitled to hear in assessing his  
20 credibility as a witness.

21 THE COURT: I don't think the theft of the  
22 guns are. If you want to get into the forgery, I'll  
23 allow that.

24 MS. DUNCAN: Thank you, Your Honor.  
25

1 BY MS. DUNCAN:

2 Q. So the charge of conspiracy to commit  
3 forgery was based on forging checks; correct?

4 A. Yes, ma'am.

5 Q. And you're currently under investigation  
6 for forging checks; correct?

7 A. Not that I'm aware of.

8 Q. You're aware that when you were arrested  
9 in November of -- not arrested, but after the crash  
10 in 2017, a check was found, a stolen check was found  
11 written out to you; correct?

12 A. No.

13 MR. DEL VALLE: I'm going to object to  
14 that for the same basis.

15 THE COURT: Are these not charged yet?

16 MR. DEL VALLE: He's not charged yet. And  
17 he would stand on his Fifth Amendment rights.

18 THE COURT: Are you going to follow your  
19 counsel's advice, Mr. Duran?

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: All right. Let's not get into  
22 the facts, if these are pending charges or they're  
23 not charged yet.

24 BY MS. DUNCAN:

25 Q. When you were arrested, you hid from

1 officers, correct, in 1997?

2 A. Yes, ma'am.

3 Q. You gave the officers a false name?

4 A. Yes, ma'am.

5 Q. And resisted arrested; correct?

6 A. Yes, ma'am.

7 Q. Now, while you were on probation in that  
8 case, you were arrested for new charges; correct?

9 A. Yes, ma'am.

10 Q. In August of 1998?

11 A. Yes, ma'am.

12 Q. And in that case you were convicted of two  
13 counts of aggravated assault on a peace officer;  
14 correct?

15 A. Yes, ma'am.

16 Q. Unlawful taking of a motor vehicle?

17 A. Yes, ma'am.

18 Q. And again, resisting arrest; correct?

19 A. Yes, ma'am.

20 Q. And you were sentenced to 11 and a half  
21 years in that case?

22 A. Yes, ma'am.

23 Q. None of it was suspended; correct?

24 A. Correct.

25 Q. And in that case you also gave officers a

1 fake name; is that right?

2 A. Yes.

3 Q. You were arrested for concealing identity?

4 A. Yes, ma'am.

5 Q. Placed in the back of a police car?

6 A. Yes, ma'am.

7 Q. And then you climbed over the seat of the  
8 police car into the front and drove away?

9 A. Yes, ma'am.

10 Q. And one of the officers tried to stop you  
11 by holding onto the police car?

12 A. Yes, ma'am.

13 Q. And you ended up dragging him several  
14 feet?

15 A. Yes, ma'am.

16 Q. And this was the charge of aggravated  
17 assault on a police officer; correct?

18 A. Yes, ma'am.

19 Q. You dragged the officer 20 to 30 feet;  
20 correct?

21 A. Yes, ma'am.

22 Q. And you forced that officer to fire his  
23 weapon to stop you from stealing his car; correct?

24 A. Yes, ma'am.

25 Q. And he was ultimately thrown from that

1 vehicle; correct?

2 A. Yes, ma'am.

3 Q. And sustained injuries?

4 A. Yes, ma'am.

5 Q. You were released -- when were you  
6 released for that offense?

7 A. In 2003.

8 Q. And while you were on parole for that  
9 case, you committed your next offense; correct?

10 A. Yes, ma'am.

11 Q. In 2005, you were convicted of murder in  
12 the second degree?

13 A. Yes, ma'am.

14 Q. And while you were pending trial on that  
15 case, you were released on bond; correct?

16 A. Yes, ma'am.

17 Q. And you fled the state?

18 A. Yes, ma'am.

19 Q. So you made a promise to the Court that  
20 you would follow certain conditions; correct?

21 A. Yes, ma'am.

22 Q. And then you violated those conditions?

23 A. Yes, ma'am.

24 Q. And New Mexico -- you fled to Nebraska;  
25 correct?

1 A. Yes, ma'am.

2 Q. And New Mexico law enforcement had to go  
3 to Nebraska to get you and bring you back?

4 A. Yes, ma'am.

5 Q. Then, finally, in 2014, while  
6 incarcerated, you were convicted of possession of a  
7 deadly weapon by an inmate; correct?

8 A. Yes, ma'am.

9 Q. You were sentenced to nine years in that  
10 case?

11 A. I was sentenced to -- yes, ma'am.

12 Q. With eight years suspended?

13 A. Yes, ma'am.

14 Q. So you had to serve one year, and then you  
15 were placed on probation; correct?

16 A. Yes.

17 Q. And that's the probation that you violated  
18 when you were arrested for felon in possession of a  
19 firearm; correct?

20 A. Yes, ma'am.

21 Q. And for failing to report to your  
22 probation officer?

23 A. Yes, ma'am.

24 Q. And the State of New Mexico filed a  
25 probation violation report against you; correct?

1 A. Yes, ma'am.

2 Q. And that petition was filed January 30,  
3 2018; correct?

4 A. Yes, ma'am.

5 Q. And there were a number of grounds. There  
6 was concealing identity from law enforcement;  
7 correct?

8 A. Yes, ma'am.

9 Q. And that was lying to the officer when you  
10 were arrested on December 15 of 2017?

11 A. Yes, ma'am.

12 Q. The felon in possession charge which we've  
13 discussed; correct?

14 A. Yes, ma'am.

15 Q. The possession of heroin charge we've  
16 discussed?

17 A. Yes, ma'am.

18 Q. And then failure to report as promised;  
19 correct?

20 A. Yes, ma'am.

21 Q. And the probation officer in that case was  
22 recommending that your probation be revoked and you  
23 serve the remainder of your sentence in prison;  
24 correct?

25 A. Yes, ma'am. That's my parole officer.



1 Q. You're also on probation, too; correct?

2 A. She made a parole recommendation. There  
3 is a difference. A judge decides a probation case.

4 Q. But your probation officer makes a  
5 recommendation to the judge; correct?

6 A. For parole; it says parole revocation  
7 recommendation, not probation.

8 Q. I'm marking for identification purpose  
9 Defendants' FS, as in Sam. I'm showing you FS. Do  
10 you recognize this document, Mr. Duran?

11 A. No, ma'am.

12 Q. Is this your name on this document?

13 A. Yes, ma'am. I haven't seen that document.  
14 That's the first time I've seen it.

15 Q. And this is a petition to revoke  
16 probation?

17 A. Yes, ma'am.

18 Q. At some point they were going to transport  
19 you to a probation revocation hearing; correct?

20 A. I'm unaware of that. Like I said, that's  
21 the first time I seen that petition.

22 Q. So you were unaware that they had moved to  
23 revoke your probation?

24 A. Yes, ma'am. The only thing I've seen is a  
25 parole violation revocation hearing.

1 Q. So you also are unaware that they filed a  
2 supplemental criminal information seeking an  
3 enhanced sentence based on your criminal history?

4 A. I'm unaware of that, too.

5 Q. And are you also unaware that the State  
6 filed a notice of withdrawal in this case indicating  
7 that you would not be transported as long as there  
8 are pending federal charges against you?

9 A. I'm unaware of that, too, ma'am.

10 MS. DUNCAN: If I may have a moment, Your  
11 Honor?

12 THE COURT: You may.

13 MS. DUNCAN: Your Honor, I think we've  
14 gotten these phone calls to play.

15 BY MS. DUNCAN:

16 Q. So earlier we were talking about threats  
17 you made against Ivy to whoop her ass. Do you  
18 remember that conversation?

19 A. Yes, ma'am.

20 Q. And you telling Ivy you would whoop her  
21 ass so she would know who the boss is?

22 A. Yes, ma'am, I probably did say that.

23 Q. And you told your wife that she should  
24 whoop Ivy's ass when her grandmother left the house;  
25 correct?

1 A. I don't recall.

2 Q. Do you recall telling Grace that you were  
3 going to whoop Ivy's ass until her butt hurt when  
4 you got out?

5 A. I don't recall that either.

6 MS. DUNCAN: Your Honor, this is  
7 Defendants' Exhibit Z25 at 11:30.

8 (Tape played.)

9 MS. ARMIJO: Your Honor, I believe I  
10 objected previously as to foundation as to a time  
11 period.

12 THE COURT: Well, do you have any better  
13 way to lay a foundation?

14 MS. DUNCAN: Sure, Your Honor.

15 BY MS. DUNCAN:

16 Q. Were you incarcerated at PNM Level 6 in  
17 August, August 15 of 2016?

18 A. Yes, ma'am.

19 Q. And that was just a few months before you  
20 were released from custody; correct?

21 A. A month, yes.

22 Q. And during that time, did you talk to your  
23 wife, Grace Duran?

24 A. On several occasions, yes, ma'am.

25 Q. And made plans to get out of custody?

1 A. Yes, ma'am.

2 Q. And had conversations with her about Ivy?

3 A. Yes, ma'am.

4 MS. DUNCAN: Your Honor, we're having some  
5 technical difficulties. Can we take about a  
6 five-minute break to fix this problem?

7 THE COURT: All right. We'll be in recess  
8 for a few minutes. All rise.

9 (The jury left the courtroom.)

10 MS. ARMIJO: Your Honor, if she's trying  
11 to impeach, then we're going to ask it be done  
12 outside the presence of the jury, because I believe  
13 he indicated that he possibly did so. If she is  
14 trying to refresh his recollection, we would request  
15 that it be done outside the presence of the jury,  
16 and then he can testify to it.

17 THE COURT: Well, there's a couple of  
18 statements where he said he didn't know. And so I  
19 guess on those she can go ahead and impeach him.  
20 The ones where he said yes, I don't think we need to  
21 hear the tape, because there is nothing to impeach.

22 MS. DUNCAN: I've eliminated several calls  
23 based on that. There is just one -- I think part of  
24 the problem, Your Honor, is most of the calls will  
25 show a 20-minute call, but there's just a handful

1 that for some reason, when you pull it up on certain  
2 software, it just shows five minutes, even though it  
3 is actually 20 minutes long. So that's the problem.

4 THE COURT: What statement are you trying  
5 to impeach at this point?

6 MS. DUNCAN: Your Honor, I think there  
7 were two statements. One was he -- the witness told  
8 his wife that he was going to beat Ivy until it  
9 hurt. Another --

10 THE COURT: What was his answer as to  
11 that?

12 MS. DUNCAN: He didn't think he had said  
13 it.

14 THE COURT: Okay. What's the other  
15 statement?

16 MS. DUNCAN: I think the other was telling  
17 his wife to hit Ivy outside the presence of the  
18 child's grandmother.

19 THE COURT: His answer as to that?

20 MS. DUNCAN: I thought that he said that  
21 he didn't remember saying that, Your Honor.

22 THE COURT: Okay. Well, then, let's  
23 refresh his memory as to the first one -- or the  
24 second one, and then you can impeach him as to the  
25 first.

1 THE CLERK: Your Honor, we have some  
2 defendants that have stepped out.

3 THE COURT: All right. We'll be in  
4 recess.

5 (The Court stood in recess.)

6 THE COURT: All right. We'll go back on  
7 the record. Ms. Armijo.

8 MS. ARMIJO: Your Honor, I believe that we  
9 have found the transcript reference, those two  
10 questions that were asked, and in both of them the  
11 question was: "And you told your wife that she  
12 should whoop Ivy's ass when her grandmother left the  
13 house; correct?"

14 His answer was, "I don't recall."

15 "Do you recall telling Grace that you were  
16 going to whoop Ivy's ass until her butt hurt when  
17 you got out?"

18 "I don't recall that either."

19 So for those two questions, we request  
20 that if his memory is going to be refreshed, that it  
21 be done outside of the presence of the jury.  
22 Because he did indicate "I don't recall" to both of  
23 those.

24 THE COURT: Are those the two statements  
25 you're intending to impeach?

1 MS. DUNCAN: There was one other one, "I'm  
2 going to fuck her ass up."

3 THE COURT: What did he say as to that?

4 MS. DUNCAN: Your Honor, I was getting  
5 ready to play that. It was one of the ones -- if we  
6 can't get it to play, then I'll just move on.

7 THE COURT: Well, go ahead and refresh his  
8 memory with these two statements, if you need to  
9 play it audibly. If you have a transcript --

10 MS. DUNCAN: I unfortunately don't. These  
11 are the calls we just got from the Government, so  
12 we've been --

13 THE COURT: Go ahead and play them.

14 And Mr. Duran, I'll remind you you're  
15 still under oath.

16 MS. ARMIJO: And Your Honor, we did find  
17 the other one. The question was: "And you telling  
18 Ivy you would whoop her ass so she would know who  
19 was the boss?"

20 And he said, "Yes, ma'am. I probably did  
21 say that."

22 So we would ask that that not be played  
23 because he had made an admission.

24 THE COURT: I think that one you got an  
25 admission on.

1 MS. DUNCAN: That's fine. I wasn't  
2 planning on playing that.

3 THE COURT: Let's play the one you want to  
4 refresh his recollection on.

5 (Tape played.)

6 THE COURT: All right. Have you now  
7 refreshed the witness, Ms. Duncan?

8 MS. DUNCAN: Yeah, there was a little bit  
9 more.

10 (Tape played.)

11 MS. DUNCAN: That's the clip, Your Honor.

12 THE COURT: All right. Anything else we  
13 need to take up before we bring the jury in? Ms.  
14 Armijo?

15 MS. ARMIJO: No, Your Honor.

16 THE COURT: Ms. Duncan? Any other  
17 defendant?

18 MS. DUNCAN: No, Your Honor.

19 (The jury entered the courtroom.)

20 THE COURT: All right.

21 Mr. Duran, I'll remind you that you're  
22 still under oath.

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: All right. Ms. Duncan, if you  
25 wish to continue your cross-examination of



1 Mr. Duran, you may do so at this time.

2 MS. DUNCAN: Thank you, Your Honor.

3 BY MS. DUNCAN:

4 Q. Before the break, we were talking about  
5 threats you made against Ivy Maldonado; correct?

6 A. Yes, ma'am.

7 Q. And you threatened that you were going to  
8 fuck up Ivy's ass; correct?

9 A. Yes, ma'am.

10 Q. And you also threatened to slap her in the  
11 back of the head instead of the mouth; correct?

12 A. Yes, ma'am.

13 Q. On direct examination, Ms. Armijo asked  
14 you about a settlement that you received after you  
15 were beaten by correctional officers. Do you  
16 remember that?

17 A. Yes, ma'am.

18 Q. And you testified that it was a  
19 confidential settlement; correct?

20 A. Yes, ma'am.

21 Q. So you couldn't testify -- you couldn't  
22 tell this jury the amount of money that you received  
23 from that settlement; right?

24 A. Yes, ma'am.

25 Q. But you've previously disclosed to others

1 how much you received in that settlement; correct?

2 A. Not that I recall.

3 Q. In February of 2015, when you met with law  
4 enforcement, you told them how much you received in  
5 that settlement?

6 A. I gave them an amount, yes.

7 Q. You told them you'd received a million  
8 dollars; correct?

9 A. I gave them an amount.

10 Q. You told them that you received a million  
11 dollars; correct?

12 A. Yes, ma'am.

13 Q. And you represented to them that that was  
14 the amount of the settlement that you had received;  
15 correct?

16 A. Yes, ma'am.

17 Q. This confidential settlement?

18 A. Yes, ma'am.

19 Q. You've received several benefits as a  
20 result of working with the Government; correct?

21 A. Yes, ma'am.

22 Q. I think you testified on direct that you  
23 received a lump sum award of two years' good time?

24 A. Yes, ma'am.

25 Q. So without that good time, you would still

1 be in the Department of Corrections as of today;  
2 correct?

3 A. Yes, ma'am.

4 Q. Because your release date was November  
5 2018?

6 A. Yes, ma'am.

7 Q. So but for the Department of Corrections  
8 giving you a lump sum, you would not have been  
9 investigated for slapping Ivy Maldonado; correct?

10 A. Yes, ma'am.

11 Q. And you would not have been investigated  
12 for prostitution; correct?

13 A. I don't think I was ever investigated for  
14 prostitution.

15 Q. Or you would not have had contact with law  
16 enforcement in the course of a prostitution sting;  
17 correct?

18 A. Yes, ma'am.

19 Q. And you would not have been arrested for  
20 being a felon in possession of a firearm?

21 A. Yes, ma'am.

22 Q. Or being a person in possession of heroin?

23 A. Yes, ma'am.

24 Q. Or being investigated with someone with  
25 forged checks?

1 A. Yes, ma'am.

2 Q. You also received free phone calls while  
3 you were at PNM; correct?

4 A. Yes.

5 Q. And the United States Government agreed  
6 not to charge you for criminal conduct that you  
7 alleged you committed on behalf of the SNM; correct?

8 A. Yes, ma'am.

9 Q. You also -- the Government agreed to --  
10 when you were out on parole that you'd be supervised  
11 by a private parole officer; correct?

12 A. A parole officer. I don't know if he was  
13 private.

14 Q. Didn't you tell your wife that FBI agent  
15 Bryan Acee had told you that he had a special  
16 probation officer to supervise you once you were  
17 released?

18 A. A probation officer that had knowledge of  
19 what I was doing and why I was there.

20 Q. And that that probation, once you were out  
21 on the streets -- that the conditions of your  
22 probation would start disappearing; correct?

23 A. Because I'd be doing my time.

24 Q. Well, you're out on the streets, you  
25 wouldn't be doing time; you'd be on probation;

1 correct?

2 A. I'd be doing my probation time.

3 Q. And that the conditions of your probation  
4 would start disappearing; correct?

5 A. I don't know about the conditions, no.

6 Q. Let's see Z23 -- I'm looking at  
7 Defendant's Exhibit Z23. It's at 1638. It's not  
8 going to play? Okay, I'll move on.

9 You believed, when you were cooperating,  
10 that you would be given a new identity; correct?

11 A. Yes, ma'am.

12 Q. And that you would be able to start over  
13 without a criminal record?

14 A. Yes, ma'am.

15 Q. And that your credit history would also be  
16 erased; correct?

17 A. Yes, ma'am.

18 Q. As would Grace's, your wife?

19 A. Yes, ma'am.

20 Q. And you were paid, I think you said,  
21 almost \$50,000?

22 A. To my knowledge, yes, ma'am.

23 Q. You were paid while you were incarcerated;  
24 correct?

25 A. Yes, ma'am.

1 Q. You received a lump sum of \$25,000 on July  
2 20, 2016?

3 A. Yes, ma'am.

4 Q. And you received another payment five days  
5 later for \$6,000?

6 A. Yes, ma'am.

7 Q. And when we were talking earlier about  
8 those pictures of you with the money and the fur  
9 coat, that was after you had been paid by the  
10 federal government; correct?

11 A. Are you distinguishing my lawsuit money or  
12 the money that the Government gave me?

13 Q. Did the federal government give you money  
14 for a lawsuit?

15 A. You asked me if I bought the fur coat with  
16 the federal government money. I said yes.

17 Q. And then, yes, so did you buy that fur  
18 coat after the federal government gave you \$25,000?

19 A. Yes. I was in Portland and it was cold.

20 Q. And did you buy that grille after the  
21 federal government gave you \$25,000?

22 A. Yes, ma'am.

23 Q. While you had a cellphone that the  
24 Government had given you to record conversations,  
25 you used it for personal business; correct?

1 A. Yes, ma'am.

2 Q. You used it to play Fantasy Football?

3 A. Yes.

4 Q. Send pictures of yourself?

5 A. Yes, ma'am.

6 Q. You deleted photographs off of that  
7 cellphone; correct?

8 A. Not that I recall -- oh, yeah, I deleted  
9 some pictures of myself that I didn't like, yes,  
10 ma'am.

11 Q. And did you receive pictures of women on  
12 that cellphone?

13 A. Yes.

14 Q. Did you delete those?

15 A. No, ma'am.

16 Q. So if those photographs are no longer on  
17 the phone, do you know who deleted them?

18 A. I have no recollection.

19 Q. I believe you testified on direct that you  
20 spent six months with Mr. Baca; correct?

21 A. Yes, ma'am.

22 MS. DUNCAN: Your Honor, at this time, I  
23 would move admission of Defendants' Exhibit V4,  
24 which is an offender physical location history for  
25 Anthony Ray Baca.

1 THE COURT: Any objection, Ms. Armijo?

2 MS. ARMIJO: No, Your Honor.

3 THE COURT: Any objection from any other  
4 defendant? Not hearing any, Defendants' Exhibit V4  
5 will be admitted into evidence.

6 (Defendants' Exhibit V4 admitted.)

7 MS. DUNCAN: And Your Honor, we'd also  
8 move the admission of Exhibit V9, which is  
9 Mr. Duran's offender physical location history.

10 THE COURT: Any objection to that, Ms.  
11 Armijo?

12 MS. ARMIJO: No, Your Honor.

13 THE COURT: Any other defendant have any  
14 objection?

15 Not hearing any, Defendants' Exhibit V9  
16 will be admitted into evidence.

17 (Defendants' Exhibit V9 admitted.)

18 MS. ARMIJO: Your Honor, I am objecting to  
19 V4, because it is not Mr. Baca's complete location  
20 history.

21 THE COURT: Well, do you have any  
22 objection to the whole thing coming in? Does  
23 somebody have a complete packet?

24 MS. DUNCAN: Your Honor, I have no  
25 objection. This is what I received from the



1 Department of Corrections in response to a request  
2 for Mr. Baca's location offender history.

3 THE COURT: Okay. But you think there is  
4 more to it?

5 MS. ARMIJO: Yes, Your Honor. It starts  
6 in 2008. And we know he's been in longer than 2008.

7 MS. DUNCAN: It starts in 1997. But, yes,  
8 we would agree that he was in prison before 1997.

9 THE COURT: All right. So we'll agree to  
10 admit this, and supplement it when we get the  
11 complete package.

12 MS. DUNCAN: I have no objection.

13 THE COURT: Is that all right with you,  
14 Ms. Armijo?

15 MS. ARMIJO: Yes, Your Honor.

16 THE COURT: So we'll have Defendants'  
17 Exhibit V4, with the understanding we'll supplement  
18 when we get the complete packet.

19 MS. DUNCAN: Thank you, Your Honor.

20 So if I could have the Elmo.

21 BY MS. DUNCAN:

22 Q. Mr. Duran, have you ever seen a document  
23 like this?

24 A. No, ma'am.

25 Q. I'll represent to you this is an offender

1 physical location history; there are a few of these  
2 in this case, and this is the one for Anthony Ray  
3 Baca. I'd like to show you -- point to January 17,  
4 2013 to June 27, 2013. Do you see that, right above  
5 my finger?

6 A. Yes, ma'am.

7 Q. Does this indicate that Mr. Baca was at  
8 the Southern New Mexico Correctional Facility in  
9 housing unit A-1, pod B, cell 111?

10 A. Yes, ma'am.

11 Q. And is this a time period when you were  
12 also at Southern New Mexico Correctional Facility?

13 A. Yes, ma'am.

14 Q. So now I'm showing you Defendants' Exhibit  
15 V9, and I'm again under -- whoops, showing you  
16 October 25, 2012, to July 1st, 2013. Do you see  
17 that?

18 A. Yes, ma'am.

19 Q. And during that time you were also at  
20 Southern New Mexico Correctional Facility?

21 A. Yes, ma'am.

22 Q. The same housing unit A-1; correct?

23 A. Yes, ma'am.

24 Q. But a different pod?

25 A. Yes, ma'am.

1 Q. You testified on direct -- I'm going to  
2 move on to a different topic. You testified on  
3 direct that you did not know in December of 2015  
4 that Mario Montoya was working for the Government;  
5 correct?

6 A. Yes, ma'am.

7 Q. But in November of 2015, you exchanged  
8 text messages with Bryan Acee indicating that you  
9 suspected he was a Government informant; correct?

10 A. I did not know, yes, ma'am.

11 Q. And on November 11, 2015, Bryan Acee told  
12 you in an exchange of texts with Bryan Acee, "Have  
13 Mario do it. We have a wire on a tracker on him";  
14 correct?

15 A. I don't recall that.

16 MS. DUNCAN: May I approach, Your Honor?

17 THE COURT: You may.

18 BY MS. DUNCAN:

19 Q. I'm going to show you -- if you would look  
20 at this entry.

21 A. Okay.

22 Q. So on November 11, 2015, you received a  
23 text from Bryan Acee that said, "Have Mario do it.  
24 We have a wire and tracker on him"; correct?

25 A. Yes, ma'am. But that doesn't indicate

1 that he was working with the FBI. That just  
2 indicates that he was being monitored by the FBI.

3 Q. On November 11, 2015, you sent a text to  
4 Bryan Acee where you said, "Don't trip, man. I got  
5 you. And from conversation Mario had with Pup, I  
6 could tell Mario on our team. But you slick. I'm  
7 going to swing him to Mario then others" -- I have  
8 no idea what you're saying here; correct?

9 A. Yes, I'm still indicating that I suspect  
10 he's working with the FBI. But Bryan Acee is  
11 continually expressing to me that he is not.

12 Q. But you're saying, "From the conversation,  
13 I could tell Mario and I are on our team"; correct?

14 A. I suspect, yes.

15 MS. DUNCAN: If I could have a moment,  
16 Your Honor.

17 THE COURT: You may.

18 BY MS. DUNCAN:

19 Q. Now, at different points when you were  
20 cooperating, you complained to Government agents  
21 about not being -- what you felt like was not being  
22 treated right; correct?

23 A. Yes, ma'am.

24 Q. For example, you wrote a letter to Sergio  
25 Sapien complaining about the harshness of the

1 disciplinary sanction you received for threatening  
2 Sergeant Urtiaga; correct?

3 A. Yes, ma'am.

4 Q. And Sergio Sapien is the Captain of STIU?

5 A. Yes, ma'am.

6 Q. And he was one of your handlers?

7 A. Yes, ma'am.

8 Q. You also sent a letter to Ms. Armijo  
9 following your arrest in November of this year --  
10 I'm sorry, in December of this year; correct?

11 A. Yes, ma'am.

12 Q. And complaining about being treated like  
13 other Government witnesses in this case?

14 A. Yes, ma'am.

15 Q. And asking her to let you out so you could  
16 continue working?

17 A. Yes, ma'am.

18 Q. And in the past when the Government hasn't  
19 given you what you wanted, you've threatened to  
20 quit; correct?

21 A. I don't recall. And I'm here today, so  
22 no.

23 Q. That's my question. The question is: In  
24 the past have you threatened to stop cooperating if  
25 you don't get what you wanted?

1           A.     I don't recall.

2                   MS. DUNCAN:   Can you pull up Defendants'  
3 Exhibit Z36?

4                   MS. ARMIJO:   And Your Honor, since the  
5 witness indicated he didn't recall, we'd request  
6 that the witness listen to it outside the presence  
7 of the jury.

8                   THE COURT:   Do you have a transcript of  
9 this?

10                  MS. DUNCAN:   Unfortunately, these are the  
11 calls we just received, so no, I don't.

12                  THE COURT:   All right. Let's excuse the  
13 jury. All rise.

14                   (The jury left the courtroom.)

15                  THE COURT:   All right. Everyone be  
16 seated.

17                  MS. DUNCAN:   Your Honor, unfortunately,  
18 this is one of those that can't play. We'll have to  
19 move on.

20                  THE COURT:   So you can't refresh the  
21 witness' memory?

22                  MS. DUNCAN:   It's one of the ones that --  
23 still? Maybe? Your Honor, we're not able to play  
24 it. I apologize for the inconvenience.

25                  THE COURT:   All right. Ms. Standridge, if

1 you'll line the jury up and get them ready to come  
2 back in.

3 (The jury entered the courtroom.)

4 THE COURT: All right. Mr. Duran, I'll  
5 remind you're still under oath.

6 Ms. Duncan, if you wish to continue your  
7 cross-examination of Mr. Duran, you may did so.

8 MS. DUNCAN: Thank you, Your Honor.

9 BY MS. DUNCAN:

10 Q. Before the break, Mr. Duran, you were  
11 testifying about not cooperating if the -- I asked  
12 you questions about that, about threats that you had  
13 made if the Government didn't give you what you  
14 want; correct?

15 A. You're saying I said --

16 Q. I had asked you questions about that;  
17 correct?

18 A. Yes, ma'am.

19 Q. And you responded, "Well, I'm here now";  
20 correct?

21 A. Yes, ma'am.

22 Q. You're not here voluntarily, though, are  
23 you, Mr. Duran?

24 A. Yes.

25 Q. In December 15, 2017, you were arrested in

1 Portland, Oregon; correct?

2 A. I still have a choice to be here today,  
3 regardless if I'm in jail or not.

4 Q. You're aware that the Government filed  
5 what's called a writ of testificandum to bring you  
6 from state custody into federal custody to testify  
7 here today?

8 A. No, I'm not aware of that.

9 Q. But you are aware on September 15, 2017,  
10 when you were stopped by a police officer, you gave  
11 him a false name; correct?

12 A. Yes, ma'am.

13 Q. And that was to avoid being arrested?

14 A. Yes, ma'am.

15 Q. Because you knew there was a warrant out  
16 for your arrest?

17 A. Yes.

18 Q. And you knew you were wanted here in New  
19 Mexico?

20 A. Yes, ma'am.

21 Q. And you were -- so you were arrested in  
22 Oregon, and then you were brought in custody to New  
23 Mexico?

24 A. Yes, ma'am.

25 Q. And are you currently in custody?



1 A. Yes, ma'am.

2 Q. The only time you and Mr. Baca were ever  
3 housed in the same pod is when you were recording  
4 him; correct?

5 A. Yes, ma'am.

6 Q. When you were in Southern New Mexico  
7 Correctional Facility, you were always in different  
8 pods?

9 A. Yes, ma'am.

10 Q. And at this time, Mr. Duran, you are  
11 facing potential charges in Portland, Oregon;  
12 correct?

13 A. Yes, ma'am.

14 Q. You are also facing potential federal  
15 charges?

16 A. Yes.

17 Q. And a probation revocation which could  
18 send you back to prison here in New Mexico?

19 A. Yes, ma'am.

20 Q. And this is all for conduct that you  
21 undertook since agreeing to be a Government witness;  
22 correct?

23 A. Yes, ma'am.

24 MS. DUNCAN: If I could just have a  
25 moment, Your Honor?

1 THE COURT: You may.

2 MS. DUNCAN: I have no further questions,  
3 Your Honor.

4 THE COURT: Thank you, Ms. Duncan.

5 Further cross-examination, Ms. Bhalla?

6 MS. BHALLA: Yes, Your Honor. Thank you.

7 THE COURT: Ms. Bhalla.

8 CROSS-EXAMINATION

9 BY MS. BHALLA:

10 Q. Good afternoon, Mr. Duran.

11 A. Good afternoon, ma'am.

12 Q. Do you recall meeting with STIU in  
13 February of 2015?

14 A. Yes, ma'am.

15 Q. And I believe that Chris Cupit was at that  
16 meeting; do you recall?

17 A. Yes, ma'am.

18 Q. And Sergio Sapien?

19 A. Yes, ma'am.

20 Q. And I believe that someone from the FBI  
21 was there as well, Katherine Brusuelas; do you  
22 recall?

23 A. Yes, ma'am.

24 Q. And in that meeting with them, you gave  
25 them information about the murder of Javier Molina,

1 didn't you?

2 A. Yes, ma'am.

3 Q. And you also gave them information about  
4 green lights that were outstanding. Do you recall  
5 that?

6 A. Yes, ma'am.

7 Q. And do you recall telling them that Carlos  
8 Herrera had a green light on him?

9 MS. ARMIJO: Objection, foundation.

10 MS. BHALLA: I'm asking him whether or not  
11 he provided this information to the agents in the  
12 meeting, Your Honor.

13 THE COURT: Don't consider this for the  
14 truth of the matter. This is simply to ask some  
15 credibility questions as to whether he's testifying  
16 credibly here in court. But you can't consider the  
17 truth of the earlier statement for the truth of the  
18 matter.

19 MS. ARMIJO: Your Honor, I don't think  
20 he's being impeached. I think Ms. Bhalla wants to  
21 get it in for the truth of the matter asserted.

22 MS. BHALLA: I'm asking, Your Honor,  
23 whether or not that was the information that he  
24 relayed.

25 THE COURT: Well, let's see what his

1 answer is. Overruled.

2 The same instruction to you. It's a yes  
3 or no question at this point.

4 A. I don't recall.

5 BY MS. BHALLA:

6 Q. Would it refresh your recollection if I  
7 showed you a copy of the report?

8 A. Yes, ma'am.

9 MS. BHALLA: Your Honor, may I approach?

10 THE COURT: You may.

11 BY MS. BHALLA:

12 Q. Just let me know when you're ready,  
13 Mr. Duran.

14 A. Yes, ma'am. I'm ready.

15 MS. BHALLA: Thank you. May I approach,  
16 Your Honor?

17 THE COURT: You may.

18 BY MS. BHALLA:

19 Q. Did you tell STIU at that meeting that  
20 there was a current outstanding hit on Carlos  
21 Herrera?

22 A. Yes, ma'am.

23 MS. ARMIJO: Objection, foundation.

24 THE COURT: Well, there's a lot of things  
25 there. I'm just going to instruct the jury you

1 can't consider these statements for the truth of the  
2 matter, and if you're not trying to impeach him,  
3 then don't ask that type of question again.

4 MS. BHALLA: Okay, Your Honor.

5 BY MS. BHALLA:

6 Q. How did you get that information?

7 MS. BHALLA: I think that will go to  
8 foundation, Your Honor.

9 A. How did I get the information that the  
10 green light was on him?

11 Q. Yes.

12 A. Because I knew that he didn't follow an  
13 order by Pup.

14 MS. BHALLA: Nothing further, Your Honor.  
15 Pass the witness. Thank you.

16 THE COURT: Thank you, Ms. Bhalla.  
17 Mr. Villa.

18 MR. VILLA: Thank you, Your Honor.

19 THE COURT: Mr. Villa.

20 CROSS-EXAMINATION

21 BY MR. VILLA:

22 Q. Good afternoon, Mr. Duran.

23 A. Good afternoon, sir.

24 Q. You testified yesterday about a  
25 conversation you had with Mr. Perez in the yard at

1 PNM. Do you remember that?

2 A. Yes, sir.

3 Q. And I think it was your direct testimony  
4 that that conversation occurred approximately August  
5 of 2015?

6 A. Yeah, around that time, yes, sir.

7 Q. So in August of 2015 you were at PNM  
8 North; right?

9 A. Yes, sir.

10 Q. And I think you said there was a shakedown  
11 in the pod so everybody was taken out to the yard?

12 A. Yes, sir.

13 Q. So if I understand that correctly, the  
14 shakedown is when correctional officers are  
15 searching the pods, searching the cells in the pod  
16 for contraband and things like that; right?

17 A. Yes, sir.

18 Q. And that happens fairly regularly?

19 A. About every 90 days.

20 Q. Every 90 days?

21 A. With us, it happens all the time. But  
22 usually every 90 days.

23 Q. Okay. And they do that, they take  
24 everybody outside to the yard?

25 A. Yes, sir.

1 Q. So that the inmates aren't there while  
2 they're searching their cells; correct?

3 A. Yes, sir.

4 Q. So you were out in the yard and Mr. Perez  
5 was out in the yard; is that right?

6 A. Yes, sir.

7 Q. And I think in the yard there at PNM North  
8 you're in cages, basically; right?

9 A. Yes.

10 Q. I think we've heard them described as,  
11 like, 7-by-7 cages that you can walk around in and  
12 that sort of thing?

13 A. Yes, sir.

14 Q. So I take it from your testimony that you  
15 were in a cage near or adjacent to Mr. Perez?

16 A. Yes, sir.

17 Q. And your testimony yesterday was that you  
18 had a particular conversation in the yard with  
19 Mr. Perez; is that right?

20 A. Yes, sir.

21 Q. And I think you said to the jury that Mr.  
22 Perez told you not to underestimate him; right?

23 A. Yes, sir.

24 Q. But he actually told you not to  
25 underestimate him because he's in a wheelchair;

1 right?

2 A. Yes, sir.

3 Q. And at that time, Mr. Perez was in a  
4 wheelchair, wasn't he?

5 A. Yes. Well, he wasn't in a wheelchair but  
6 he didn't have his walker because it was used to  
7 make shanks.

8 Q. Well, Mr. Duran, you weren't in -- you're  
9 referring to the allegation against Mr. Perez in  
10 this case; right?

11 A. I'm referring to the allegations of what  
12 he told me why his walker was taken away.

13 Q. Well, Mr. Duran, it's funny because you  
14 didn't testify about that yesterday. So why don't  
15 we talk about the question that I'm asking you.

16 MS. ARMIJO: Objection, argumentative.

17 THE COURT: Don't argue the evidence.  
18 Just ask questions.

19 BY MR. VILLA:

20 Q. Do you agree with me, Mr. Duran, that  
21 yesterday you didn't testify at all about what Mr.  
22 Perez did or didn't tell you about his walker?

23 A. Yes, sir.

24 Q. So you agree with that?

25 A. Yes, sir.



1 Q. And the allegations against Mr. Perez with  
2 regard to the Javier Molina murder; true?

3 A. Yes, sir.

4 Q. And the Javier Molina murder took place in  
5 Southern New Mexico Correctional Facility March  
6 2014; right?

7 A. Yes, sir.

8 Q. You were not there in Southern in March of  
9 2014; right?

10 A. No, sir.

11 Q. So you don't know what happened with Mr.  
12 Perez' walker?

13 A. No, sir.

14 Q. But what you testified about yesterday was  
15 that Mr. Perez told you not to underestimate him;  
16 right?

17 A. Yes, sir.

18 Q. And you also testified that you'd been in  
19 the SNM since, I guess it was, 2003, maybe 2005,  
20 something like that; right?

21 A. Yes, sir.

22 Q. But 2015, at PNM, was the first time you'd  
23 met with Mr. Perez?

24 A. Yes, sir.

25 Q. And you would agree with me that Mr. Perez

1 didn't get to PNM until June of 2015?

2 A. He got to PNM in June of '15?

3 Q. 2015, yes, sir.

4 A. Okay.

5 Q. Do you know that, yes or no?

6 A. Is that when he arrived? I don't know  
7 when he arrived. I don't keep track of him.

8 Q. Let me ask you, Mr. Duran, do you know if  
9 he arrived at PNM in June of 2015?

10 A. No, sir.

11 MR. VILLA: Can we see what's already been  
12 admitted as Government's Exhibit V24, please. I'm  
13 sorry, defense V24. Thank you.

14 Q. Mr. Duran, this has already been admitted  
15 in evidence. It is an offender physical location  
16 history. Have you seen one of these before?

17 A. Yes, sir.

18 Q. And this is Mr. Perez' physical location  
19 history. And I will show you highlighted there is  
20 June 17, 2015, to PNM. Do you see that?

21 A. Yes, sir.

22 Q. And if you go down from there -- I'm just  
23 going to draw a line -- do you see where it says "to  
24 Southern New Mexico Correctional Facility"?

25 A. Yes, sir.

1 Q. So he's in Southern approximately October  
2 2013, according to this document, yes?

3 A. Yes, sir.

4 Q. And he stays in Southern in these  
5 different housing units until he goes to PNM October  
6 17, 2015; right?

7 A. Yes, sir.

8 Q. And at PNM, when he gets there, June 17,  
9 2015, he's put in the North 3-B building, X pod,  
10 105-S; right?

11 A. Yes, sir.

12 Q. Is that the same pod you were in?

13 A. Yes, sir.

14 Q. At that time?

15 A. Yes, sir.

16 Q. And that's the first time you met Mr.  
17 Perez?

18 A. Yes, sir.

19 Q. And you know that during that time Mr.  
20 Perez was at PNM North, he was normally transported  
21 around in a wheelchair?

22 A. I had no knowledge of how he was  
23 transported.

24 Q. You don't know, one way or another?

25 A. No, sir.

1 Q. And it's your testimony when you spoke to  
2 him in the yard, he wasn't in his wheelchair?

3 A. He was in his wheelchair when I spoke to  
4 him.

5 Q. He was in his wheelchair?

6 A. He was in a wheelchair.

7 Q. Maybe it was his, maybe it wasn't his.  
8 But he was in a wheelchair when you spoke to him?

9 A. Yes, sir.

10 Q. And the conversation that you had with him  
11 was that he wasn't to be underestimated because he's  
12 in a wheelchair?

13 A. Yes, sir.

14 Q. And are you aware that at that time, 2015,  
15 there were rumors that Mr. Perez had cooperated or  
16 talked to STIU about the Javier Molina murder?

17 MS. ARMIJO: Objection; facts not  
18 evidence.

19 A. I was.

20 MR. VILLA: And Your Honor, we got with  
21 this on Mr. Martinez. It's not offered to the  
22 truth. It's offered for the fact that the rumors  
23 did exist.

24 THE COURT: Well, I think that it's being  
25 offered for the truth. Overruled -- I mean,

1 sustained.

2 MR. VILLA: And Your Honor, if we can  
3 approach, the Court's ruling with respect to Mr.  
4 Martinez was the opposite. So if you'd like me  
5 to --

6 THE COURT: You can come up here.

7 MR. VILLA: -- elaborate on it.

8 (The following proceedings were held at  
9 the bench.)

10 MR. VILLA: Your Honor, I asked Timothy  
11 Martinez the same --

12 THE COURT: What is the relevance of it  
13 coming out of him?

14 MR. VILLA: Well, it's the same thing. It  
15 was --

16 THE COURT: Tell me why it's relevant  
17 coming out of his mouth.

18 MR. VILLA: Because it establishes that  
19 the rumors existed at this time, and this is the  
20 time leading up to the conversations that Mr. Perez  
21 had with Billy Cordova. And Billy Cordova will  
22 testify, and the conversations he had with  
23 Mr. Duran, that there were rumors against Mr. Perez;  
24 and that it goes to both Mr. Perez and Mr. Cordova's  
25 state of mind, when he's getting these recorded

1 conversations with him, and why Mr. Perez said  
2 things he said to Mr. Cordova. This is -- Mr.  
3 Martinez is there at this exact same timeframe. So  
4 it helps establish Mr. Perez' state of mind at the  
5 time he made the statements to Mr. Duran.

6 THE COURT: How does this differ, then,  
7 from what I did earlier?

8 MS. ARMIJO: I don't remember the context  
9 of what you did earlier. But any rumors, by their  
10 very nature, are hearsay.

11 THE COURT: Not that they just exist. I  
12 think I can give a limiting instruction on this,  
13 which is what I think I did with Martinez, is I said  
14 you can't consider the rumors for the truth of the  
15 matter. But the existence of them might cause  
16 somebody to do something just because of their  
17 existence. I think that's what I did with Martinez.

18 MS. ARMIJO: I think the question to him  
19 would be whether or not he even knew that there are  
20 rumors.

21 THE COURT: Lay a foundation. If he says  
22 yes, then I'll let him answer the question. Lead  
23 him so they're yes or no. Then I'll give the  
24 limiting instruction.

25 MR. VILLA: Maybe I worded it wrong, but

1 that was my intent of my question, was whether he  
2 knew about the rumors.

3 THE COURT: Okay. Ask it first, and say  
4 it's a yes-or-no question, and see -- if he doesn't,  
5 we'll have to move on. Hold on. Is V24 in  
6 evidence? I had discussed it with Ms. Fox-Young.  
7 But I don't have it admitted.

8 Ms. Standridge? Was V24 admitted?

9 THE CLERK: February 1st.

10 THE COURT: Well, I had with Roark that  
11 Ms. Fox-Young mentioned it, but I didn't have on my  
12 notes that it was admitted. But you do?

13 THE CLERK: Yes.

14 MR. VILLA: That's what I have, Your  
15 Honor. It was admitted through Mr. Roark.

16 THE COURT: Okay.

17 (The following proceedings were held in  
18 open court.)

19 THE COURT: All right. Mr. Villa, you can  
20 ask your foundational questions, and Mr. Duran, just  
21 answer yes or no.

22 THE WITNESS: All right.

23 BY MR. VILLA:

24 Q. Mr. Duran, yes or no, were you aware that  
25 there were rumors about whether Mr. Perez

1 cooperated?

2 A. No, sir.

3 Q. Have you ever been made aware of those  
4 rumors?

5 A. No, sir.

6 Q. You would agree with me that -- I think  
7 you testified a little bit about this in your  
8 direct -- in the prison setting, it's not a good  
9 place for someone to show weakness, is it?

10 A. No, sir.

11 Q. As a matter of fact, it's better to show  
12 strength, or act like you're tough?

13 A. Yes, sir.

14 Q. So that you wouldn't want -- if you're in  
15 prison, you wouldn't want people to underestimate  
16 you and think that you're weak?

17 A. No, sir.

18 Q. And if I understand it right, you met Mr.  
19 Perez for the first time at PNM North. And I know  
20 you don't remember when Mr. Perez got there, but you  
21 don't disagree that according to that document, he  
22 got there in June of 2015?

23 A. That's correct.

24 Q. And so that was the first time you met Mr.  
25 Perez?



1           A.     The first time I met him in person, the  
2 person was in the yard.

3           Q.     When you had this conversation?

4           A.     Yes, sir.

5           Q.     And so that was August sometime in 2015, a  
6 month and a half or so after he got to PNM?

7           A.     In between, yes, sir.

8           Q.     And that was the first time you met him?

9           A.     Yes, sir.

10          Q.     Now, Mr. Duran, you would agree with me  
11 that the first time you ever conveyed this  
12 information about this conversation you had with Mr.  
13 Perez to law enforcement was on February 18, 2018?

14          A.     Yes, sir.

15          Q.     So prior to that, you had been interviewed  
16 by law enforcement a number of times, hadn't you?

17          A.     Yes, sir.

18          Q.     In fact, you'd been interviewed by law  
19 enforcement, including the FBI, in August of 2015,  
20 had you not?

21          A.     Yes, sir.

22          Q.     And you've been interviewed by them many  
23 times since then?

24          A.     Yes, sir.

25          Q.     And it wasn't until just February 18,

1 which I guess is three days ago, four days ago --

2 A. Yes, sir.

3 Q. -- that you revealed this information for  
4 the very first time?

5 A. Yes, sir.

6 Q. I believe you testified about this  
7 already, but I just want to confirm that you  
8 recorded conversations with Mario Rodriguez; right?

9 A. Yes, sir.

10 Q. And I think Ms. Armijo asked you about  
11 this. She phrased it in terms of a confession; is  
12 that right?

13 A. Yes, sir.

14 Q. Or you thought you had recorded it, but  
15 maybe the device didn't work?

16 A. Yes, sir.

17 Q. And Mr. Rodriguez' confession was in  
18 connection to the Molina homicide?

19 A. Yes, sir.

20 Q. So had Mr. Rodriguez not decided to work  
21 for the Government, you would have testified against  
22 him?

23 A. Yes, sir.

24 Q. And I think you testified you were also  
25 housed with Timothy Martinez at PNM in 2015; is that

1 right?

2 A. Yes, sir.

3 Q. You recorded conversations of Mr.  
4 Martinez, as well?

5 A. Yes, sir.

6 Q. Concerning the Molina homicide?

7 A. Yes, sir.

8 Q. You also would have testified against  
9 Mr. Martinez?

10 A. Yes, sir.

11 Q. I want to clarify, just to make sure I  
12 understand this lump sum award that we're talking  
13 about. "Lump sum" is a term that is used a lot in  
14 the legal field, but maybe not necessarily outside  
15 of it, with respect to good time. So when you're  
16 serving prison time in the state, you get good time  
17 credit; right?

18 A. Yes, sir.

19 Q. And that good time credit is calculated  
20 based upon whatever the crime is that you've been  
21 convicted of; right?

22 A. Yes, sir.

23 Q. And then you can get additional good time  
24 credit -- and when we say "good time credit," we  
25 mean time off your sentence; right?

1 A. For a variety of things, yes, sir.

2 Q. Okay. So if you're sentenced to ten  
3 years, there are some crimes where automatically you  
4 get day-for-day credit, right, 50/50 credit?

5 A. 50/50, 65, and 85 percent.

6 Q. Okay. Depending on the type of crime?

7 A. Yes, sir.

8 Q. And you get that good time by having good  
9 behavior and doing other things; right?

10 A. Yes, sir.

11 Q. And you could lose that good time if you  
12 get in trouble or have discipline or have those  
13 kinds of issues?

14 A. Yes, sir.

15 Q. And then the additional credits that you  
16 can get, or additional time off, can be obtained  
17 doing different things; right?

18 A. Yeah. Education.

19 Q. Education, vocational training, those  
20 sorts of things?

21 A. Yes, sir.

22 Q. But you specifically got time off or a  
23 lump sum credit off because you worked for the  
24 Government; right?

25 A. No; because I saved two lives.

1 Q. So did you get any good time or additional  
2 credit off for your work with the Government in this  
3 case?

4 A. No, sir.

5 MR. VILLA: May I have just a moment, Your  
6 Honor?

7 THE COURT: You may.

8 BY MR. VILLA:

9 Q. Sorry. I just had one other question,  
10 Mr. Duran. While you were in PNM North, in this  
11 2015 timeframe, were you also housed with Billy  
12 Cordova?

13 A. At one point, yes.

14 Q. So at PNM, in 2015, you were housed with  
15 him?

16 A. Yes, sir.

17 Q. In the fall; isn't that right?

18 A. Yes, sir.

19 MR. VILLA: That's all the questions I  
20 have, Judge.

21 THE COURT: Thank you, Mr. Villa.

22 Ms. Jacks?

23 MR. JACKS: Thank you, Your Honor.

24

25

1 CROSS-EXAMINATION

2 BY MS. JACKS:

3 Q. Mr. Duran, I just want to make sure I  
4 understand this lump sum situation. You got actual  
5 time shaved off your sentence; right?

6 A. Yes, ma'am.

7 Q. You were in prison doing a sentence that a  
8 judge had told you you were going to serve; right?

9 A. Yes, ma'am.

10 Q. And based on -- at least in part on your  
11 work with the Government in this case, somebody went  
12 to the Department of Correction and asked the  
13 Department of Corrections to give you time off of  
14 your sentence; right?

15 A. I became eligible for a lump sum.

16 Q. And somebody from law enforcement actually  
17 pled your case to the New Mexico Department of  
18 Corrections, did they not?

19 A. I don't have knowledge of that.

20 Q. Well, as a result of this lump sum, you  
21 actually didn't have to serve two years of a  
22 sentence that a court had imposed on you; right?

23 A. That's correct.

24 Q. And you were supposed to get out before  
25 the lump sum -- what was your release date?

1 A. 2018.

2 Q. Do you know the month?

3 A. No.

4 Q. But you said that you got two years taken  
5 off your sentence; right?

6 A. Yes, ma'am.

7 Q. And when were you released?

8 A. In 2016.

9 Q. What month?

10 A. September.

11 Q. So you were released in September 2016,  
12 and if you had two years shaved off your sentence,  
13 that means you would have originally been scheduled  
14 for release in September of 2018; right?

15 A. Yes, ma'am.

16 Q. And so as a result of this lump sum, you  
17 got basically two years out of jail free that you  
18 would have otherwise had to serve?

19 A. Yes.

20 Q. And during that time is when you created  
21 this persona, Zo Meechie, that we saw the  
22 photographs of earlier?

23 A. During what time?

24 Q. During the time that you were out of the  
25 custody of --

1 A. Yes, ma'am.

2 Q. -- enjoying this two years of get out of  
3 jail free; right?

4 A. Yes, ma'am.

5 Q. And it was during that time that you  
6 created this persona, Zomeechi?

7 A. Yes, ma'am.

8 Q. The guy with the fur coat and the grille  
9 and hundred dollar bills all over the place?

10 A. Yes, ma'am.

11 Q. And was it also during this time that you  
12 were enjoying this two years out of jail that you  
13 became employed as an undercover federal informant  
14 in another city?

15 A. Yes.

16 Q. And you were paid for that work?

17 A. Yes, ma'am.

18 Q. And you were permitted to go out and  
19 engage in undercover criminal conduct on behalf of  
20 the federal government?

21 A. No. No, ma'am.

22 Q. Did your work involve undercover work, the  
23 work?

24 A. In a sense, yes. Yes, ma'am.

25 Q. And during the time that you were working



1 for the federal government while you were out on  
2 this get-out-of-jail-free pass, did you continue to  
3 commit criminal offenses?

4 A. No.

5 Q. Well --

6 A. I was investigated for criminal offenses.

7 Q. Were you investigated for the abuse of  
8 your stepdaughter?

9 A. Yes, ma'am.

10 Q. Were you investigated for the abuse of  
11 your wife?

12 A. No, ma'am.

13 Q. Were you investigated for some sort of  
14 involvement in prostitution activity?

15 A. No, ma'am.

16 Q. Were you investigated -- by that time, you  
17 agreed, I think, when Ms. Duncan asked you, that you  
18 were detained, and there was some sort of  
19 investigation that was conducted about prostitution  
20 activity?

21 A. I was never detained.

22 Q. In August of 2017?

23 A. No.

24 Q. Did you become aware in August of 2017  
25 that you were suspected of engaging in some sort of

1 activity related to prostitution?

2 A. No.

3 Q. In August of 2017 were you still working  
4 in an undercover capacity for the federal  
5 government?

6 A. Yes, ma'am.

7 Q. And were you still being paid by the  
8 federal government?

9 A. Yes, ma'am.

10 Q. November 11 of 2017, that's when you were  
11 arrested for possession of firearms and some sort of  
12 drugs; correct?

13 A. Allegedly, yes, ma'am.

14 Q. And you got to bail out on that case;  
15 right?

16 A. Yes, ma'am.

17 Q. And that the act of being able to bail  
18 out -- was that, at least in part, because of your  
19 position as an undercover government informant?

20 A. No, ma'am.

21 Q. Were you still working as a government  
22 informant on November 11, 2017?

23 A. Yes, ma'am.

24 Q. And were you still being paid by the  
25 federal government?

1 A. At this time I was, but -- yeah. Yes,  
2 ma'am.

3 Q. As of the date of that arrest?

4 A. Yes, ma'am.

5 Q. At some time after that, after the federal  
6 government became aware of that arrest, did they  
7 terminate your services?

8 A. Yes.

9 Q. And did they stop paying you?

10 A. Yes, ma'am.

11 Q. And then, when you were in the vehicle  
12 that fled from police on November 27, 2017, am I  
13 correct in assuming that at that point in time you  
14 were no longer working for the federal government?

15 A. I still was working with the federal  
16 government.

17 Q. On November 27, 2017?

18 A. Yes.

19 Q. And were they still paying you?

20 A. No. They didn't know about the arrest.

21 Q. Weren't you obligated to tell them?

22 A. I didn't tell them.

23 Q. When did the federal government find out  
24 that you'd been arrested with guns and drugs?

25 A. When you told them. I don't know.

1 Q. What makes you think I told them?

2 A. Just guessing.

3 Q. Well, Mr. Duran, this is a court. So  
4 we're not asking to you guess when you answer the  
5 questions.

6 A. Well, I don't know who told them.

7 Q. But you were arrested -- you were arrested  
8 and brought to court, and the State of New Mexico  
9 sought your extradition?

10 A. After, later on?

11 Q. Yes.

12 A. Yes, ma'am.

13 Q. And when was that?

14 A. December 15.

15 Q. Of 2017?

16 A. Yes, ma'am.

17 Q. And that's when the federal government  
18 found out that you were engaged in criminal behavior  
19 while you were working in this undercover capacity?

20 A. Yes, ma'am.

21 Q. In this job that you'd been set up with  
22 based on your cooperation with the Government in  
23 this case?

24 A. Yes, ma'am.

25 Q. And that is when they stopped paying you?

1 A. Yes, ma'am.

2 Q. Now, I want to ask you some questions  
3 about the incident with Rhino that Ms. Armijo asked  
4 you about yesterday and again today. First of all,  
5 who is Rhino, if you know?

6 A. Rhino is a rival gang member that I've  
7 known since 1992.

8 Q. What's his name? That's what I meant to  
9 ask.

10 A. Daniel.

11 Q. Do you know his full name?

12 A. I believe it's Daniel Munoz.

13 Q. And when was the incident between  
14 Mr. Munoz and Mr. Sanchez?

15 A. I don't recall the date.

16 Q. Can you give us any indication?

17 A. It was in 2005.

18 Q. Are you guessing, or do you know?

19 A. You asked me to give an indication. I'm  
20 giving you an indication. That's when I believe it  
21 was.

22 Q. You said it like a question mark at the  
23 end, so I'm asking: Are you guessing?

24 A. I said 2005. I didn't put a question mark  
25 on it.

1 Q. That's your best estimate?

2 A. Yes.

3 Q. Sometime in 2005?

4 A. Yes, ma'am.

5 Q. And where did the incident happen?

6 A. At that time, PNM South.

7 Q. And do you know what housing unit?

8 A. It happened in housing unit 3-B.

9 Q. And is it your testimony that you know  
10 about that incident because you were present in the  
11 housing unit at the time of the incident?

12 A. I know about the incident because Daniel  
13 Sanchez told me about the incident.

14 Q. And I think you said that at least at one  
15 point in your testimony yesterday.

16 A. And today.

17 Q. My question is -- let's forget for a  
18 second about what you may or may not know from Mr.  
19 Sanchez. Okay? Is it your testimony that you  
20 somehow observed the incident because you were in  
21 the housing unit at the time it happened?

22 A. No.

23 Q. Where were you when the incident happened?

24 A. I was housed in 1-B.

25 Q. So is it your testimony that you were at

1 PNM North -- I'm sorry, PNM South -- at the time  
2 that Daniel Munoz and Mr. Sanchez fought?

3 A. Yes, ma'am.

4 Q. And is it also your testimony that you  
5 were -- let me just go back for a second, because  
6 prior to being at PNM South, I think you said you  
7 were at another facility where this Daniel Munoz had  
8 gotten into it with some people; is that right?

9 A. Yes.

10 Q. And as a result of that incident, a bunch  
11 of people had been transferred to PNM South?

12 A. Yes, ma'am.

13 Q. And is it your testimony that you were  
14 transferred to PNM South along with Daniel Munoz?

15 A. Yes, ma'am.

16 Q. At the same time, on the same van?

17 A. No.

18 Q. That's what I meant by "with." So can you  
19 tell us what you mean by "with"?

20 A. SNM Gang members were transported, and he  
21 went around the same time.

22 Q. So it's around the same time?

23 A. Yes, ma'am.

24 Q. Not necessarily on the same day?

25 A. No.

1 Q. And definitely not in the same transport?

2 A. Yes, ma'am.

3 MS. JACKS: Your Honor, at this point, I'd  
4 offer a stipulation that the incident between Daniel  
5 Sanchez and Daniel Munoz occurred on November 14,  
6 2005, at 7:23 a.m. in Unit 3-B.

7 THE COURT: Any --

8 MS. JACKS: I'm referring to Bates page  
9 3451.

10 THE COURT: Do you wish to accept the  
11 stipulation, Ms. Armijo?

12 MS. ARMIJO: Yes, Your Honor, that's fine.

13 THE COURT: Is that all right with the  
14 other defendants?

15 MR. VILLA: Yes, Your Honor.

16 MS. DUNCAN: Yes, Your Honor.

17 MS. BHALLA: Yes, Your Honor.

18 THE COURT: All right. Not hearing any  
19 objection --

20 BY MS. JACKS:

21 Q. Can we have Defendants' Exhibit V9,  
22 please? And I think we probably need to go to page  
23 2.

24 All right. So Mr. Duran, it's been  
25 stipulated to by the Government that the incident



1 that we were discussing occurred on November 14 of  
2 2005, at 7:23 in the morning. And we've enlarged a  
3 portion of this exhibit. I'm just going to draw a  
4 line right here underlining the date of November 14,  
5 2005. Do you see that line?

6 A. Yes, ma'am.

7 Q. Okay. And does it show that you were  
8 transferred to PNM on that date?

9 A. Yes, ma'am.

10 Q. And what was the time? Let me clear the  
11 screen for a second. I'm going to go to the entry  
12 just before the one I underlined. Okay? So where  
13 were you just prior to your transfer to PNM?

14 A. Lea County Correctional Facility.

15 Q. Okay. And on November 14 of 2005, at  
16 12:47 in the afternoon, were you transferred out of  
17 Lea County?

18 A. Yes, ma'am.

19 Q. And were you transferred directly to the  
20 Penitentiary of New Mexico?

21 A. Yes, ma'am.

22 Q. And what time, according to this physical  
23 location history, did you arrive at the Penitentiary  
24 of New Mexico on November 14, 2005?

25 A. 12:47.

1 Q. That's actually the time that you left Lea  
2 County.

3 A. Oh, 1710.

4 Q. Do you know how to tell military time?

5 A. Yes.

6 Q. And so what time is that? What is 1710 in  
7 regular time?

8 A. About 5:10.

9 Q. 5:10 in the afternoon; right?

10 A. Yes, ma'am.

11 Q. And where were you taken, what housing  
12 unit were you placed in at the Penitentiary New  
13 Mexico on November 14?

14 A. 1-A.

15 Q. And that's PNM South?

16 A. It just says "to PNM."

17 Q. If you look at the entry just above that,  
18 does it show where you were housed?

19 A. That's on 11/30, 2005.

20 Q. Actually, that's 11/14/2005, at 1710,  
21 until 11/30/2005 at 1327. Do you see that?

22 A. 1-A.

23 Q. So that's PNM South housing unit 1-A; is  
24 that correct?

25 A. Correct.

1 Q. And can you tell this jury where you were  
2 at 7:23 in the morning on November 14 of 2005?

3 A. Repeat the question.

4 Q. Where were you at 7:23 in the morning on  
5 November 14 of 2005?

6 A. In 1-A.

7 Q. No.

8 A. At the South.

9 Q. You were at Lea County Correctional  
10 Facility.

11 A. Oh, 11/14?

12 Q. Yeah. You weren't even at PNM when that  
13 incident happened, were you?

14 A. When did the incident happen?

15 Q. It's been stipulated it was November 14,  
16 2005, at 7:23 a.m.

17 A. So I got there the day it happened?

18 Q. My question to you was: When the incident  
19 happened, you were not even at the Penitentiary of  
20 New Mexico, were you?

21 A. No. No, ma'am.

22 MS. JACKS: Thank you. I have nothing  
23 further.

24 THE COURT: Thank you, Ms. Jacks.

25 Ms. Armijo, do you have redirect of

1 Mr. Duran?

2 REDIRECT EXAMINATION

3 BY MS. ARMIJO:

4 Q. It appears you arrived the day that the  
5 incident happened?

6 A. I guess so.

7 Q. And did you ever testify that you were  
8 there when it happened, or that Daniel Sanchez told  
9 you about it after it had happened?

10 A. Just that he told me that it happened.

11 Q. All right. And was that after the  
12 incident itself?

13 A. Yes, ma'am.

14 Q. And I guess since you arrived, since it  
15 happened that day, do you recall if people were  
16 talking about it in SNM -- were people in SNM  
17 talking about it the day that you arrived at PNM?

18 A. There was a lot of tension the day I  
19 arrived.

20 Q. All right. In reference to what was going  
21 on with you in November and December of 2017, did  
22 you stop communicating with the federal authorities?

23 A. Yes, ma'am.

24 Q. And was that because you were fearful of  
25 any potential ramifications from the arrest of

1 November 11 of 2017?

2 A. Yes, ma'am.

3 Q. Now, the pictures that -- the different  
4 pictures that were shown to you, when you were  
5 working with the federal government back there, were  
6 you working a money-laundering ring?

7 A. I was trying to get into a  
8 money-laundering ring, yes, ma'am.

9 Q. All right. As part of that, tell us about  
10 the different characters that we saw pictures of.  
11 Who were they and why did you recreate them?

12 A. They're just -- I'm a musician, so I rap.  
13 It's just characters that I created over my record  
14 label, and a stunt that I sold, working with the  
15 federal government.

16 Q. And when you say your "record label," do  
17 you own a record label?

18 A. A record label was something that was  
19 going to be created between I and the federal  
20 government so I could launder money.

21 Q. Okay. And was that part of the operation  
22 that you were working?

23 A. Yes, ma'am.

24 Q. Have any charges ever been brought against  
25 you regarding your daughter or your wife in

1 reference to what has been questioned about 2017?

2 A. No, ma'am.

3 Q. When you were talking about whooping her  
4 ass, did you mean literally, or what is it that you  
5 were referring to?

6 A. I was playing. It was a gesture of a  
7 joke.

8 Q. All right. As a parent, do you sometimes  
9 get mad at your child?

10 A. It's an expression of frustration; doesn't  
11 mean that I'm going to do it.

12 Q. All right. Who was "Carolyn" referring to  
13 when you were asked questions?

14 A. Carolyn Bueno was a female that I was  
15 writing before I got back with my wife.

16 Q. And eventually did you introduce her to  
17 Jerry Armenta?

18 A. Yes, ma'am.

19 Q. The shank incident from February of  
20 2015 -- I shouldn't say the shank incident -- the  
21 incident regarding a correctional officer by the  
22 name of Urtiaga. At the time that that happened,  
23 had you already contacted STIU in reference to  
24 possibly cooperating?

25 A. Yes, ma'am.

1 Q. And was that before you spoke to the FBI?

2 A. The incident?

3 Q. Yes. So in other words, was the incident  
4 after you had already contacted STIU but before you  
5 talked to the FBI?

6 A. Yes, ma'am.

7 Q. And were you being housed with Robert  
8 Martinez and Roy Martinez?

9 A. Yes, ma'am.

10 Q. Are they leaders in the gang?

11 A. Yes, ma'am.

12 Q. Were they -- did you want them to know  
13 that you were cooperating potentially with law  
14 enforcement?

15 A. No. So I was still acting how I normally  
16 would as a gang member.

17 Q. You were asked about if you were here --  
18 are you here under subpoena?

19 A. No, I'm on my free will.

20 Q. And have you been -- have there been any  
21 promises to force you to be here?

22 A. There has been no promises to me  
23 whatsoever.

24 Q. Have there ever been any promises about  
25 any possible pending future charges that you have?

1 A. No, ma'am.

2 Q. All right. Ms. Bhalla asked you about a  
3 question regarding Mr. Herrera and a green light.  
4 And you indicated in your response, "He didn't  
5 follow an order by Pup." What is it you were  
6 referring to regarding Mr. Herrera?

7 A. When I --

8 MS. DUNCAN: Your Honor, I'm going to  
9 object. This is eliciting hearsay.

10 THE COURT: Well, if it's coming from Mr.  
11 Baca, why don't you establish that what he's about  
12 to say is coming from Mr. Baca. So this is a  
13 yes-or-no answer.

14 BY MS. ARMIJO:

15 Q. Is what you're about to say coming from  
16 Mr. Baca?

17 A. Yes, ma'am.

18 Q. All right. Did he tell you something  
19 about Carlos Herrera?

20 A. He told me something about him? No, he  
21 ordered Carlos Herrera to make sure that the Javier  
22 Molina hit gotten care of. And when it didn't,  
23 that's when he ordered the green light on him.

24 Q. Okay. So --

25 MR. JACKS: Your Honor, we'd ask that that



1 be limited.

2 THE COURT: It will be so limited.

3 BY MS. ARMIJO:

4 Q. When was this conversation?

5 A. In 2013, in the yard.

6 Q. And we know that Javier Molina was  
7 eventually killed in 2014; correct?

8 A. Correct.

9 Q. So was this a hit that Mr. Baca had  
10 previously put on Javier Molina?

11 A. Yes, ma'am.

12 Q. And was it a hit that Carlos Herrera  
13 allegedly did not act on back in -- whenever, prior  
14 to the 2013 conversation?

15 A. Yes, ma'am.

16 Q. All right. Now, if someone is in bad  
17 standing with the SNM, in order to make things right  
18 and maybe get a green light off you, would a person  
19 then do as they are ordered in the future?

20 A. Yes, ma'am.

21 Q. In reference to Rudy Perez, you were asked  
22 by Mr. Villa about a statement that he made about  
23 his walker being used for shanks. Did you have a  
24 conversation with Mr. Perez about his walker being  
25 used for shanks?

1 MR. VILLA: Objection, Your Honor. I  
2 never asked him if he had a conversation about his  
3 walker being used for shanks.

4 MS. ARMIJO: I'll rephrase it, Your Honor.

5 THE COURT: Let her rephrase the question.

6 BY MS. ARMIJO:

7 Q. In response to a question by Mr. Villa,  
8 your response had something to do with the fact that  
9 you had a conversation with Mr. Perez involving  
10 shanks and his walker. Do you recall that question  
11 and your answer?

12 A. Yes, ma'am.

13 MR. VILLA: Objection. It's outside the  
14 scope of cross.

15 THE COURT: Overruled.

16 BY MS. ARMIJO:

17 Q. What is it -- what is the conversation  
18 that you had with Mr. Perez that you were referring  
19 to with Mr. Villa?

20 A. I was expressing to his attorney why he  
21 was in a wheelchair.

22 Q. No, but I'm asking you now about the  
23 conversation that you had with Mr. Perez. What did  
24 Mr. Perez tell you about his walker and shanks?

25 A. He told me that they had took away his

1 walker because they made it -- because they thought  
2 that he made shanks out of it for the Javier Molina  
3 murder. And that's why he was in a wheelchair.

4 Q. All right. And --

5 MR. JACKS: Your Honor, we'd ask that that  
6 be limited.

7 THE COURT: These statements by Mr. Perez  
8 are just limited to your deliberations as to Mr.  
9 Perez, not to the other three defendants.

10 BY MS. ARMIJO:

11 Q. And did anyone, prior to getting ready for  
12 your trial testimony this week, ever ask you about  
13 Rudy Perez and any statements that you have made  
14 with him or if you knew him?

15 A. No. Actually, I never really got  
16 debriefed on all the knowledge I had about the SNM.  
17 So it just came up.

18 Q. All right. When you were specifically  
19 asked about Rudy Perez?

20 A. Yes. Yes, ma'am.

21 Q. And do you know every single SNM member  
22 that has ever been part of SNM?

23 A. No, ma'am.

24 MS. ARMIJO: May I have a moment, Your  
25 Honor?

1 THE COURT: You may.

2 BY MS. ARMIJO:

3 Q. Sorry, one other area. Okay. Ms. Duncan  
4 asked you and played a portion of Exhibit Number 324  
5 in reference to killing Marcantel and Anthony Baca  
6 saying something to the effect of -- a portion of  
7 that call where he said, "Not Marcantel." Do you  
8 recall that?

9 A. Yes, ma'am.

10 Q. When was that recording in relationship to  
11 the recordings that -- a lot of the recordings that  
12 we heard today?

13 A. The very, very beginning, like the first  
14 one.

15 Q. All right. At some point in time did --  
16 was -- do you know how much later Marcantel was put  
17 into the hits?

18 A. Not far after.

19 Q. All right. Back in 2013, when you had  
20 your conversations with Anthony Baca, did you -- was  
21 Marcantel specifically mentioned?

22 A. Yes, ma'am.

23 Q. And even if you were not in the same pod  
24 as Anthony Baca, were you still able to converse  
25 with him?

1 A. Yes, ma'am.

2 MS. ARMIJO: I have nothing further.

3 THE COURT: Thank you, Ms. Armijo.

4 MS. DUNCAN: Your Honor, may we approach  
5 before I do my recross?

6 THE COURT: Do you have something further?

7 (The following proceedings were held at  
8 the bench.)

9 MS. DUNCAN: Government's Exhibit 294,  
10 what portion the Court had excluded -- you had  
11 excluded Bates No. 6015.

12 THE COURT: This is what?

13 MS. DUNCAN: This is Government's Exhibit  
14 294, one of the ones that you had limited.

15 THE COURT: I don't think I have my notes  
16 here. I'll try to turn these into an order. Since  
17 most of the exclusions ended up being ones that are  
18 going to go to the exhibit that's going in to the  
19 jury rather than what was played here in court, I  
20 don't have my yellow tags.

21 MS. ARMIJO: Did you want something  
22 included in?

23 MS. DUNCAN: No, I don't want a  
24 reference -- that is out. I'll probably not deal  
25 with it and do it later. I have my notes. Your

1 Honor, it's not worth the Court's time. I just  
2 won't get into it.

3 THE COURT: It may be in the vestibule. I  
4 was going to try to put these into an order, the  
5 rulings I made. I don't have the packet here at the  
6 bench anymore. Okay. Which portion are you wanting  
7 to use?

8 MS. DUNCAN: It was on page 2015, where  
9 Eric Duran was talking to Anthony about this earlier  
10 order to Lazy, so it starts off --

11 THE COURT: I have on them 294, that it's  
12 page 616. This is the one where I --

13 MS. DUNCAN: I think you excluded 616, and  
14 I'm wondering about 615.

15 THE COURT: I don't think I -- let me ask  
16 this, Ms. Armijo. I made some rulings on this, but  
17 I left you with 615. Did you play 615?

18 MS. ARMIJO: No.

19 THE COURT: Did you play anything on 613,  
20 14 and 15?

21 MS. ARMIJO: Exhibit numbers?

22 THE COURT: No, these are all related to  
23 294.

24 MS. ARMIJO: I don't have 294 with me  
25 right here. I can go get my notes.

1 THE COURT: Why don't you, because I might  
2 want to redact off those three pages, as well.  
3 These are the ones where you got back up after I'd  
4 already made my ruling and suggested three more  
5 pages. And I didn't -- I have not reviewed those.

6 MS. ARMIJO: I only played 618 to 619.

7 THE COURT: Say that again.

8 MS. ARMIJO: 618 to 619.

9 THE COURT: Okay. Here's what I would  
10 like to do, since I can correct this. After Ms.  
11 Duncan got up, I went back and looked at pages 613,  
12 614, and 615. And large portions of those are  
13 statements that Duran made and Baca did not adopt.  
14 And I don't have those pages in front of me. But I  
15 did look at it.

16 So what I would suggest is that we redact  
17 those pages. If I need to give you specifics on  
18 those pages, I can. But if I'm going to do that, do  
19 you want to go back into this?

20 MS. DUNCAN: Here's my issue, Your Honor,  
21 is that Mr. Duran is testifying now that Mr. Baca  
22 told him about this hit on Lazy, but in this  
23 conversation that was Mr. Duran, he's telling Mr.  
24 Baca about it. So --

25 THE COURT: So you want to use something

1 on 615?

2 MS. DUNCAN: That's what I was thinking  
3 about. But I don't want to waive our objection to  
4 the rest of this coming in, because it is hearsay.

5 THE COURT: Let me do this: Do you  
6 have -- well, I'll have to look at it with a little  
7 more care. But redact 613, 614, then I won't redact  
8 615. You can withdraw your objection to 615. What  
9 do you think?

10 MS. DUNCAN: Counsel has abandoned me.  
11 Yes.

12 THE COURT: Is that the way you want to do  
13 it? All right. So I'll order the redaction of 613,  
14 614, since they weren't played. After I went back  
15 and relooked at them, I thought large portions of  
16 those were statements that Duran made and Baca  
17 didn't adopt. Are you withdrawing your objection?

18 MS. DUNCAN: Your Honor, never mind. I  
19 think if you're going to take out the whole thing --  
20 otherwise, I'm worried we're creating a weird  
21 record.

22 THE COURT: So 613, 614, and 615 will be  
23 redacted. If you want me to pinpoint, I can.

24 MS. ARMIJO: That's okay. We got it, Your  
25 Honor.



1 MR. JEWKES: Your Honor, if we might --  
2 everybody finished? We heard the revelation for the  
3 first time this afternoon that Mr. Duran was  
4 involved in some type of money laundering scheme,  
5 yet we've received no information -- I mean, no  
6 discovery in that regard.

7 MS. ARMIJO: Your Honor, that's -- they  
8 knew that he was working for the FBI over there.  
9 However, that's an ongoing investigation. I have  
10 never seen it. I don't think -- I think with all of  
11 his stuff, it's come to a standstill. So it's  
12 certainly a secret. But given the nature of the  
13 photos is why the type of investigation that came  
14 out. But certainly the defense has always known  
15 that he was over there working for the FBI. The  
16 only thing that came out today was what type of  
17 investigation it was. But it's still an ongoing  
18 large-scale operation by the FBI that he has been  
19 cut out of.

20 MR. JEWKES: Do we know for a fact that he  
21 was working for the FBI or on his own?

22 MS. ARMIJO: He was working for the FBI.

23 MR. JEWKES: In a money-laundering  
24 operation?

25 MS. ARMIJO: Yes, that's the type --

1 MR. JEWKES: And will they provide you  
2 with any overnight discovery?

3 MS. ARMIJO: Probably not.

4 MR. CASTELLANO: We're not going into the  
5 investigation. He's aiding the investigation, not  
6 the subject of the investigation.

7 MR. JEWKES: We understood that he was  
8 taken off the FBI roll, so to speak.

9 MR. CASTELLANO: Remember, initially in  
10 the prior hearings, he had a warrant out of El Paso,  
11 and that was outstanding. So as a result of the  
12 warrant, they decided to not use him for a time  
13 until that warrant got cleared. So that was  
14 actually part of the reason he wasn't working,  
15 because of the outstanding El Paso warrant. That is  
16 part of a prior proceedings.

17 MS. ARMIJO: That was disclosed.

18 MR. JEWKES: So it's your understanding  
19 that this money-laundering operation was ongoing in  
20 Oregon?

21 MS. ARMIJO: And other states.

22 MR. JEWKES: And they have not spoken to  
23 your case agent, Agent Acee, about this and briefed  
24 them on what's going on?

25 MR. CASTELLANO: I don't know what Agent

1 Acee knows about it. But I know that Mr. Duran was  
2 handed off as an informant to the FBI in the  
3 northwestern part of the country. I don't think he  
4 was working for Agent Acee anymore, since it was  
5 handed off to the handlers.

6 MR. JEWKES: But you have no documentation  
7 on this?

8 MR. CASTELLANO: We're not part of that  
9 investigation. It's another district's  
10 investigation.

11 MR. JEWKES: Have you made a request?

12 MS. ARMIJO: No.

13 MR. CASTELLANO: He's aiding; not the  
14 subject of the investigation.

15 MR. JACKS: In an attempt to rehabilitate  
16 this witness, the Government purposely brought out  
17 that these photographs or this Facebook persona was  
18 part of that investigation. We have absolutely no  
19 discovery or no information that that's actually  
20 true. And if it's not true, we're certainly  
21 entitled to show it. And I think we need immediate  
22 discovery of whatever information the Government has  
23 or can obtain regarding what the purpose and what  
24 the investigation was, and whether those Facebook  
25 photos were part of that investigation. Because

1 that's the impression we're leaving the jury with.

2 MS. ARMIJO: I think he testified that  
3 there was more for his record label, as well, and  
4 that it goes back, and some of those photos are old.  
5 I don't think it was strictly for them. Certainly  
6 he certainly was working on a money-laundering  
7 investigation and creating a persona. But I don't  
8 think --

9 THE COURT: I do think that because the  
10 Government has brought this up, y'all probably need  
11 to contact whatever FBI agents there are, that are  
12 in charge of this operation, and if it's a closed  
13 operation, and review whatever they give you for  
14 Jencks, Giglio, and anything else, and see if any of  
15 it needs to be turned over. All right.

16 (The following proceedings were held in  
17 open court.)

18 THE COURT: All right. Ms. Duncan, you  
19 have recross?

20 MS. DUNCAN: Just briefly, Your Honor.

21 THE COURT: Ms. Duncan.

22 RECROSS-EXAMINATION

23 BY MS. DUNCAN:

24 Q. Ms. Armijo asked you about the threats you  
25 made against Sergeant Urtiaga. Do you remember

1 that?

2 A. She asked me about the incident, yes,  
3 ma'am.

4 Q. And you talked about being housed with  
5 Robert and Roy Martinez at the time; correct?

6 A. Yes, ma'am.

7 Q. And you didn't want anyone to know that  
8 you were cooperating?

9 A. Yes.

10 Q. So you were playing along?

11 A. Yes, ma'am.

12 Q. But in addition to threatening Sergeant  
13 Urtiaga's life, you blurted out his home address,  
14 correct, or what you believe is his home address?

15 A. I didn't blurt out nothing. Those are  
16 allegations against me.

17 Q. Allegations that Mr. Urtiaga made;  
18 correct?

19 A. Yes, ma'am.

20 Q. And you told Urtiaga, Sergeant Urtiaga,  
21 you'd gotten that information from your girlfriend;  
22 correct?

23 A. I did not make any statements to him.

24 Q. And at the time, your girlfriend was  
25 Carolyn Bueno; correct?

1 A. Yes, ma'am.

2 Q. And Carolyn Bueno used to work for  
3 attorney Ron Bell; correct?

4 A. Yes.

5 Q. And Ron Bell is an accident attorney in  
6 Albuquerque?

7 A. Yes, ma'am.

8 Q. And Mr. Urtiaga had been represented by  
9 Ron Bell; correct?

10 A. Yes, ma'am.

11 MS. DUNCAN: I have no further questions,  
12 Your Honor.

13 THE COURT: Thank you, Ms. Duncan.  
14 Mr. Villa.

15 MR. VILLA: Thank you, Your Honor.

16 THE COURT: Mr. Villa.

17 RECROSS-EXAMINATION

18 BY MR. VILLA:

19 Q. Mr. Duran, you just testified when Ms.  
20 Armijo asked you about the statement Mr. Perez made  
21 concerning his walker. Do you remember that?

22 A. Yes, sir.

23 Q. And you told Ms. Armijo that back in this  
24 conversation you had with Mr. Perez in the yard  
25 during the shakedown, was he said that his walker

1 was taken away because they thought it was used to  
2 make shanks for Molina; right?

3 A. Yes, sir.

4 Q. And Ms. Armijo asked you if you'd ever  
5 really been asked about Mr. Perez before February  
6 18, before this weekend, and you said no; right?

7 A. Yes.

8 Q. But you were asked about Mr. Perez on  
9 February 18 of this year, this weekend, weren't you?

10 A. Asked about him?

11 Q. Yes, sir.

12 A. No, not that I recall.

13 Q. So are you telling me that on February 18,  
14 2018, you didn't meet with Agent Thomas Neale and  
15 Ms. Armijo?

16 A. Yes. Yes, sir.

17 Q. And you didn't discuss the meeting you had  
18 with Mr. Perez out in the yard in 2015?

19 A. No, I don't recall that.

20 Q. If I showed you a report of that, would  
21 that help refresh your recollection?

22 A. Yes, sir.

23 Q. May I approach?

24 THE COURT: You may.

25

1 BY MR. VILLA:

2 Q. Mr. Duran, just look at this to yourself.

3 This is an FBI report, February 18, 2018; right?

4 A. Yes, sir.

5 Q. And at the bottom, can you read that last  
6 paragraph just to yourself, please? And this report

7 indicates that the United States Attorney,

8 Ms. Armijo, met with you; right?

9 A. Yes, sir.

10 Q. At the top, about your expected testimony?

11 A. Yes, sir.

12 Q. And Agent Thomas Neale wrote this report?

13 A. Yes, sir.

14 Q. So you remember now that just three days  
15 ago you had a meeting with Ms. Armijo and FBI Agent  
16 Neale, and you were asked about Mr. Perez?

17 A. The primary discussion was about Mr. Baca.  
18 So I forgot that conversation, that I had mentioned  
19 that.

20 Q. So was that the first time, then, that you  
21 were asked about Mr. Perez?

22 A. That's the first time I had mentioned it,  
23 yes.

24 Q. In response to Ms. Armijo's questions on  
25 her redirect examination, you said you'd never been



1 asked about Mr. Perez before, didn't you?

2 A. Did I?

3 Q. Well, let me ask you this question:

4 Before February 18, 2018, were you asked about Mr.  
5 Perez?

6 A. Yes.

7 Q. Okay. And the question I have for you is  
8 that in those previous times that you were asked  
9 about Mr. Perez, you never mentioned this  
10 conversation that you had with Mr. Perez in the  
11 yard, did you?

12 A. No.

13 Q. And you never mentioned on February 18,  
14 2018, that Mr. Perez said his walker was taken away  
15 because they thought it was used to make shanks, did  
16 you?

17 A. No, sir.

18 Q. It doesn't reflect that in this report,  
19 does it?

20 A. No.

21 MR. VILLA: That's all the questions I  
22 have.

23 THE COURT: Thank you, Mr. Villa.

24 Ms. Bhalla.

25 MS. BHALLA: Yes, Your Honor. Thank you.

1 THE COURT: Why don't we do this: We've  
2 been going for a while. I know it's a little early,  
3 but we've gone past a break time. Why don't we take  
4 up Mr. Duran's recross in the morning?

5 All right. I appreciate everybody's hard  
6 work. We'll see you back at 8:30. Sorry for so  
7 many interruptions, but you got a little exercise  
8 today, if nothing else. I appreciate your patience  
9 and your hard work.

10 All rise.

11 (The jury left the courtroom.)

12 THE COURT: All right. Y'all have a good  
13 evening.

14 MS. DUNCAN: Your Honor, we need to  
15 admonish the witness.

16 THE COURT: All right. Mr. Duran, you're  
17 on the stand right now, so don't talk to anyone  
18 about your testimony or what's occurring here in the  
19 courtroom. Okay?

20 THE WITNESS: Yes, sir.

21 (The Court stood in recess.)  
22  
23  
24  
25

1 February 22, 2018

2 THE COURT: All right. Good morning,  
3 everyone. I appreciate everybody being here and  
4 ready to go on time.

5 Mr. Jewkes, you wanted to bring something  
6 to the attention of the Court before we get started  
7 this morning.

8 MR. JEWKES: Good morning, Your Honor.

9 THE COURT: Mr. Jewkes.

10 MR. JEWKES: Your Honor, yesterday morning  
11 my girlfriend's mother passed away, and I'd like to  
12 see about going to the service tomorrow afternoon.  
13 I would leave here about 2:00.

14 THE COURT: All right. And Ms. Jacks will  
15 still be here?

16 MR. JEWKES: Yes, Your Honor. She will be  
17 here to cover.

18 THE COURT: Thank you, Mr. Jewkes. Sorry  
19 to hear about your loss.

20 MR. JEWKES: Thank you.

21 THE COURT: All right. Does anyone else  
22 have anything they need to discuss before we bring  
23 the jury in? Anything else we need to do?

24 MS. DUNCAN: Your Honor, I do.

25 THE COURT: Let me check with the

1 Government. Nothing, Mr. Beck?

2 MR. BECK: No, Your Honor.

3 THE COURT: All right, Ms. Duncan.

4 MS. DUNCAN: Your Honor -- and I reviewed  
5 the transcript last night, because of the problem we  
6 were having with the recording -- and I don't think  
7 we need to bring any additional recordings in, but  
8 when I went through, I realized I missed two points  
9 on my recross of Mr. Duran. So I'd like an  
10 opportunity to ask him these two points rather than  
11 re-call him as a witness.

12 THE COURT: Have you run those two points  
13 past the Government?

14 MS. DUNCAN: I have not.

15 THE COURT: Why don't do you that now and  
16 see if they have any problem with them being outside  
17 the scope.

18 (A discussion was held off the record.)

19 MS. DUNCAN: Your Honor, it's my  
20 understanding the Government doesn't object.

21 THE COURT: All right. Juror No. 4,  
22 Ms. Harris, is coming down with the flu, so she's  
23 going to go during the lunch hour to the emergency  
24 room to see if she can get some Tamiflu, so we may  
25 be a little longer at the lunch hour, depending on

1 how quickly she can get in and out. Any other  
2 defendants have anything they need to discuss?  
3 Anything else I can address?

4 MR. VILLA: Your Honor, just briefly,  
5 picking up on the point I raised yesterday, we do  
6 have some defense witnesses who have arrived today  
7 under subpoena. If we can give them a better  
8 timeframe when to return based on the Government's  
9 estimate -- I don't know if they intend to -- they  
10 still intend to rest today or maybe tomorrow after  
11 it went yesterday with Mr. Duran. I'd just ask for  
12 some idea so we can talk to these witnesses.

13 THE COURT: Do y'all have any thought,  
14 given where we are this morning? Ms. Armijo?

15 MS. ARMIJO: Your Honor, I think there is  
16 still the potential later today, but most likely  
17 tomorrow.

18 And I would just also like to make a  
19 request. I know that there are several defense  
20 witnesses here. We have been good about providing  
21 defense before the end of the day a list of the  
22 witnesses that we're calling. I ask that of the  
23 defense. And clearly they have people here, and  
24 only Ms. Jacks provided one name today.

25 So we would ask the Court to enforce the

1 agreement that we have lived up to as far as  
2 additional witnesses today, because we have not been  
3 informed about any of these numerous witnesses that  
4 we see around the courthouse.

5 THE COURT: Do you want to give a list to  
6 the Government?

7 MR. VILLA: We provided what we thought in  
8 good faith would be the witnesses that we would put  
9 on by the end of the day. We knew Mr. Cordova was  
10 going to testify today. We know that will take a  
11 long time. We know that the Government also  
12 intended to call Agent Acee, they need to finish  
13 with Mr. Duran, and they also intend to call  
14 Mr. Santistevan.

15 So based on the Government's  
16 representations of who they were going to call  
17 today, we estimated that we might be able to put on  
18 one witness, and that was the witness that Ms. Jacks  
19 provided to the United States.

20 So we're compliant with the agreement in  
21 terms of estimating who we think we might be able to  
22 call. But again, that's why we're trying to nail  
23 down when the Government might rest, so we can say,  
24 okay, we've got four or five hours. Ms. Armijo,  
25 this is who we'll call to fill those four or five

1 hours.

2 It sounds like nobody is going to get  
3 called by the defense today; most likely Friday.  
4 And by the end of today we'll tell her who we intend  
5 to call tomorrow. The witnesses who are here is  
6 because, you know, we sort of had to guess when to  
7 subpoena them. So they're here today because that  
8 was our best guess. That doesn't mean we're going  
9 to put them on today or tomorrow. It might be next  
10 week.

11 THE COURT: All right. Does that work now  
12 at the present time, this morning, Ms. Armijo?

13 MS. ARMIJO: Yes, Your Honor, it does.  
14 And I guess we'll just keep the Court and defense  
15 counsel updated. It's going to depend on, of  
16 course, obviously cross-examination and also the  
17 issue with our juror over the lunch hour.

18 THE COURT: All right. Ms. Jacks, did you  
19 have something?

20 MS. JACKS: No, I have a witness in the  
21 hall I'm going to go talk to.

22 THE COURT: Any of the other defendants  
23 have anything they need to raise? We're still  
24 waiting for one juror, juror number 9; Mr. Moore  
25 wasn't here when we last checked on the jurors, so

1 to my knowledge, we're still waiting.

2 MR. LOWRY: If that's case, Your Honor,  
3 could we take a break?

4 THE COURT: Yes, go ahead.

5 Ms. Duncan, can we go ahead and get the  
6 jury in while we're waiting for Mr. Lowry?

7 MS. DUNCAN: Yes, Your Honor. That's  
8 fine.

9 THE COURT: All right. All right. All  
10 rise.

11 (The jury entered the courtroom.)

12 THE COURT: All right. Everyone be  
13 seated.

14 Good morning, ladies and gentlemen. I  
15 appreciate everybody being back and ready to go and  
16 on time. I appreciate the way y'all have gone about  
17 your tasks. I know some of you are struggling with  
18 illness, and I know it's been tough sometimes. I  
19 appreciate everybody working hard and trying to keep  
20 after it, and stay available to serve on the jury.  
21 I really appreciate it. I know that things come up  
22 and I appreciate the spirit by which you've gone  
23 about your public service here. It's really been  
24 remarkable. And I think certainly the Court  
25 appreciates it, and I think all the parties and the



1 attorneys do, too. Y'all have been a great bunch.  
2 I appreciate what you've done for us.

3 All right. We'll wait for Mr. Duran to  
4 get in here. I brought y'all in before I did  
5 Mr. Duran today.

6 All right. Mr. Duran, if you'll come up  
7 and sit in the witness box here. Mr. Duran, I'll  
8 remind you that you're still under oath.

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: All right. Ms. Bhalla, I  
11 think you were going to engage in some recross. Do  
12 you wish to do that at this time?

13 MS. BHALLA: Yes, Your Honor. Thank you.

14 THE COURT: Ms. Bhalla.

15 ERIC PRESTON DURAN,  
16 after having been previously duly sworn under  
17 oath, was questioned, and continued testifying  
18 as follows:

19 RECROSS-EXAMINATION

20 BY MS. BHALLA:

21 Q. Thank you. Good morning, Mr. Duran.

22 A. Good morning, ma'am.

23 Q. When we spoke yesterday about the green  
24 light on my client, Carlos Herrera, the conversation  
25 that you had with the Government about the green

1 light on him occurred, I believe, on February 19 of  
2 2015. Does that sound correct to you?

3 A. Yes, ma'am.

4 Q. And Javier Molina was murdered in 2014;  
5 correct?

6 A. Yes, ma'am.

7 Q. Would you agree with me that 2015 comes  
8 after 2014?

9 A. Yes, ma'am.

10 Q. Okay. And the information that you  
11 provided was that there was a current outstanding  
12 green light on my client; isn't that correct?

13 A. Yes, ma'am.

14 MS. BHALLA: Thank you, Your Honor. I  
15 pass the witness.

16 THE COURT: Thank you, Ms. Bhalla.

17 Ms. Duncan, you had a couple of issues you  
18 wanted to cover with Mr. Duran.

19 MS. DUNCAN: Yes, Your Honor. Thank you.

20 THE COURT: Ms. Duncan.

21 RECROSS-EXAMINATION

22 BY MS. DUNCAN:

23 Q. Mr. Duran, I just had two topics I wanted  
24 to cover with you. The first is: How old is Ivy  
25 Maldonado?

1 A. She'll be 7 in March.

2 Q. And during your discussion with Mr. Villa,  
3 you talked about the lump sum good time credit that  
4 you got; correct?

5 A. Yes.

6 Q. The two years. And Mr. Villa asked you if  
7 you got those two years for your work with the  
8 Government. Do you remember that question?

9 A. For my work with the Government or for  
10 saving two lives?

11 Q. That's the question he asked you: For  
12 your work with the Government. And your response  
13 was for saving two lives; correct?

14 A. Yes.

15 Q. And those two lives were Gregg Marcantel  
16 and Dwayne Santistevan?

17 A. Yes, ma'am.

18 Q. Those are the two lives that you claimed  
19 to save. And those are the -- you were given a  
20 recording device to record Roy and Robert Martinez'  
21 discussion of the hit on Dwayne Santistevan;  
22 correct?

23 A. To record all information relevant to that  
24 hit, yes, ma'am.

25 Q. And you did record those conversations;

1 correct?

2 A. Yes.

3 Q. And you had conversations with Robert and  
4 Roy Martinez about hitting Dwayne Santistevan;  
5 correct?

6 A. Yes, ma'am.

7 Q. And also hitting Gregg Marcantel; correct?

8 A. Yes, ma'am.

9 Q. And then you encouraged Roy and Robert  
10 Martinez to write letters to people on the street to  
11 commit those hits; correct?

12 A. I didn't encourage them, no.

13 Q. Well, you discussed with them that they  
14 needed to write letters that were obvious -- that  
15 were clear messages to the people on the street to  
16 hit Dwayne Santistevan and Gregg Marcantel; correct?

17 A. That was their own choice, to write those  
18 letters.

19 Q. But you discussed it with them; correct?

20 A. I discussed writing letters?

21 Q. Yes, with Robert and Roy Martinez?

22 A. Oh, yes, ma'am.

23 Q. And you told Robert and Roy Martinez that  
24 you would facilitate getting those letters out on  
25 the street; correct?

1 A. Yes, ma'am.

2 Q. That you were going to send them out  
3 through legal mail?

4 A. Yes, ma'am.

5 Q. And then when Mr. Baca came back from out  
6 of state, you discussed these hits with Mr. Baca;  
7 correct?

8 A. Yes, ma'am.

9 Q. And although he said that he did not want  
10 to hit Gregg Marcantel in the beginning, eventually  
11 you convinced him that he should; correct?

12 A. No, ma'am.

13 Q. And then you used a cellphone to  
14 facilitate communications with people on the street;  
15 correct?

16 A. Yes, ma'am.

17 Q. And to facilitate getting a firearm;  
18 correct?

19 A. Yes, ma'am.

20 Q. And it was for that work that you were  
21 given the two-year lump sum credit; correct?

22 A. I was again given the lump sum for saving  
23 two lives.

24 Q. Those lives were Gregg Marcantel and  
25 Dwayne Santistevan?

1 A. Yes, ma'am.

2 Q. The people about whom we've just  
3 discussed?

4 A. Yes, ma'am.

5 MS. DUNCAN: I have no further questions,  
6 Your Honor.

7 THE COURT: Thank you, Ms. Duncan.

8 Ms. Armijo, do you have redirect?

9 REDIRECT EXAMINATION

10 BY MS. ARMIJO:

11 Q. When was the lump sum given to you in  
12 connection to the recordings?

13 A. In 2016.

14 Q. All right. And the recordings were made  
15 in 2015?

16 A. Yes, ma'am.

17 Q. And did you ask for the lump sum?

18 A. I had no knowledge whatsoever that I could  
19 even get a lump sum.

20 Q. And in asking Roy Martinez and Robert  
21 Martinez to give you the letters, would that also be  
22 a way to control the letters getting out onto the  
23 street and in the hands of other SNM Gang members?

24 A. I purposely did that so I could turn the  
25 letters over to the FBI.

1 Q. All right. As opposed to having them send  
2 it out and make it to the street?

3 A. Yes, ma'am.

4 Q. And did you encourage Jerry Armenta in any  
5 way to do the right thing?

6 A. I just asked him a question, what meant  
7 more to him: His family, his kids, or the SNM  
8 organization. And he made his own choice.

9 Q. And in reference to Carlos Herrera, Ms.  
10 Bhalla was asking you about the hit. Did you base  
11 your information based upon the information that  
12 Anthony Baca provided to you in 2013?

13 A. Yes, ma'am.

14 Q. All right. Because when you had the  
15 conversation in February of 2015, that was before  
16 Anthony Baca got back; correct?

17 A. Yes, ma'am.

18 Q. And you had not had any updated  
19 information from Anthony Baca as to whether or not  
20 the hit was current on Carlos Herrera; correct?

21 A. Yes, ma'am.

22 Q. And you also were not down at Southern  
23 when the Molina murder occurred, were you?

24 A. No, ma'am.

25 Q. All right. And just to be clear, you were

1 never provided with a tablet for discovery, were  
2 you?

3 A. No, ma'am.

4 MS. ARMIJO: No further questions. Thank  
5 you.

6 THE COURT: Thank you, Ms. Armijo.

7 All right. Mr. Duran, you may step down.

8 Is there any reason that Mr. Duran cannot  
9 be excused from the proceedings, Ms. Armijo?

10 MS. ARMIJO: No, Your Honor.

11 THE COURT: How about the defendants?

12 MS. DUNCAN: Your Honor, we would ask the  
13 Court to hold him over.

14 THE COURT: You're going to be subject to  
15 recall. You'll need to leave the courtroom and  
16 leave the facility, as well, but you're subject to  
17 re-call, so you're not to discuss your testimony  
18 with anyone. Okay?

19 THE WITNESS: All right.

20 THE COURT: Thank you, Mr. Duran. Thank  
21 you for your testimony.

22 MR. DEL VALLE: Your Honor, may I be  
23 excused?

24 THE COURT: You may, Mr. Del Valle.

25 All right. Does the United States have



1 its next witness or evidence?

2

3 UNITED STATES OF AMERICA

4 STATE OF NEW MEXICO

5

6 C-E-R-T-I-F-I-C-A-T-E

7 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
8 Official Court Reporter for the State of New Mexico,  
9 do hereby certify that the foregoing pages  
10 constitute a true transcript of proceedings had  
11 before the said Court, held in the District of New  
12 Mexico, in the matter therein stated.

13 In testimony whereof, I have hereunto set my  
14 hand on this 28th day of March, 2018.

15

16

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